



Case Report

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| 1 | Case Number | 0388/12 |
| 2 | Advertiser | Yum Restaurants International |
| 3 | Product | Food and Beverages |
| 4 | Type of Advertisement / media | Internet - Social |
| 5 | Date of Determination | 26/09/2012 |
| 6 | DETERMINATION | Dismissed |

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

The creative idea behind The Plank TVC is to emphasise the length of THE PLANK product by comparing it to various items including:

- “your girlfriend’s leg”
- “Slat’s bat” (i.e. Michael Slater’s cricket bat)
- “this horse”

On or around 26 August 2012 the image from The Plank TVC of “your girlfriend’s leg” was displayed on the Pizza Hut Facebook page with the prompt to “caption this”,

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

Pizza Hut Australia has a history of posting very anti-women stuff on Facebook. Deliberately excluding women, using language to do so. However, today they took it a step further and posted a photo with a man measuring a woman's legs. The woman was wearing an extremely short skirt. Pizza Hut thought it would be funny to get people to comment on the ad. They can't possibly be surprised by the result: hundreds of mostly men making comments about women's boxes, wanting to finger her, wanting to have sex with her, etc., etc. Pizza Hut deliberately elicited this reaction by asking their Facebook friends to comment on such a sexist image. I feel marginalized as a woman. I'm sick of Pizza Hut ignoring me in their

marketing and presenting me with sexist material and now a very sexist image with deliberately elicited comments objectifying and sexualizing women like it's a fun, enjoyable pastime. It's not okay. I didn't need to see that on my Facebook wall on a Sunday afternoon.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

Compliance with Relevant Codes

Australian Association of National Advertisers (AANA) Code of Ethics (the Code)

The following sections of the Code have been cited as relevant:

Section 2.1 Discrimination or Vilification - Gender

Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

The AANA Practice Note to the Code describes "discrimination" as unfair or less favourable treatment, and "vilification" as to humiliate, intimidate, incite hatred, contempt or ridicule. It also states that portraying a woman as attractive does not of itself constitute discrimination or vilification of women.

The woman portrayed in the Image is not dressed in clothing which is demeaning or inappropriate, but rather in a normal outfit for a young woman today. The woman is watching a pinball game presumably with her boyfriend, and is among friends. The main character in The Plank TVC is measuring her leg, however this is not humiliating or ridiculing women in any way. Rather than discriminating against or vilifying women, the Image celebrates the woman featured and in a tongue in cheek manner attempts to dramatise the size of the product.

Section 2.2 Objectification Exploitative and degrading – women

Advertising or Marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

Section 2.4 Sex/sexuality/nudity

Advertising or marketing communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

While the Image and prompting for comments may be seen as cheeky and provocative (using the length of a woman's leg as a point of comparison for the size of a new product), it in no way exploits or degrades women. The message of The Plank TVC, the Image and the prompt to "caption this" is that Pizza Hut's new product is unusually long. An image of an attractive woman is used however that is not the focus of the advertising and there is no underlying message that women are less worthwhile. While the Image does feature a woman's bare leg, the woman is in no way depicted in a sexual manner, and her clothing is similar to clothing worn by many young women.

Section 2.4 is stated in the Practice Note to cover images which are highly sexually suggestive and inappropriate for the relevant audience, which is not the case here.

AANA Code of Advertising & Marketing Communications to Children (Children's Code)

The advertising is directed to the 18+ age group, not children (being persons 14 years old or younger) and as such, the Children's Code is not relevant.

AANA Food & Beverages Advertising & Marketing Communications Code (F&B Code)

There is no suggestion that the advertising breaches the F&B Code.

Facebook Comments

The complaint asserts that Pizza Hut deliberately put up a sexist image on its Facebook page with “deliberately elicited comments objectifying and sexualizing women”.

This assertion is rejected and we wish to assure the ASB that Pizza Hut has strict procedures and advertising guidelines in place which provide for the development of advertisements which comply with all relevant legislation and advertising codes, and which do not offend prevailing community standards.

Specifically, Pizza Hut (through its advertising agency, M&C Saatchi) has engaged a Community Manager who works 32 hours per week with the sole responsibility of posting and monitoring content on the Pizza Hut Australia Facebook page on a daily basis, 7 days per week.

In addition Pizza Hut has set down guidelines or “Facebook House Rules” which govern its Facebook page. These guidelines specifically note that Pizza Hut is concerned that third party comments stay within prevailing community standards: “We’re a family company, so please keep your language clean – we’re not cool with people being obscene, offensive, defamatory, threatening, harassing, overtly sexual, discriminatory or hateful to another person or organisation – including us, our partners, our employees, competitors, and other people or organisations”.

All third party user generated posts are subject to these House Rules and are monitored by the Community Manager. While most of the posts in relation to the Image were funny and perhaps a little bit silly, posts that were deemed inappropriate were removed as soon as they were discovered. If comments of the type referred to by the complainant had appeared they would have been removed. Repeat offenders are banned from the Pizza Hut page. In certain cases where posts may not warrant deletion but could still be considered less than desirable, every effort is made to ensure such posts are “hidden” so that only the original poster and their Facebook friends can see the content, but not the wider Pizza Hut community.

We also point out that the Image and all associated posts have now been removed from the Pizza Hut Facebook page.

In summary, the purpose of The Plank TVC, the Image and the prompt to “caption this” was to draw attention to the size of the new product in a fun, light-hearted way. In our view the Image itself does not breach section 2 of the Code, and Pizza Hut put in place measures to ensure that action could be taken to delete or restrict inappropriate third party postings in relation to the Image. For these reasons we do not believe that Pizza Hut has breached section 2 of the Code.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that the advertisement contains material that is sexist and objectifying and contains references to sexualized themes.

The Board reviewed the material provided by the complainant which included examples of comments posed by users. The Board also noted the advertiser’s response to the material provided.

The Board first considered the definition of advertising or marketing communications. Under the Code, advertising and/or marketing communication means “any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer, and over which the advertiser or marketer has a reasonable degree of control, and that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct.”

The Board considered that the Facebook site of an advertiser is a marketing communication tool over which the advertiser has a reasonable degree of control and that the site could be considered to draw the attention of a segment of the public to a product in a manner calculated to promote or oppose directly or indirectly that product. The Board determined that the provisions of the Code apply to an advertiser’s Facebook page. As a Facebook page can be used to engage with customers, the Board further considered that the Code applies to the content generated by the page creator as well as material or comments posted by users or friends. The Board noted that on this Facebook page, the user comments identified in the complaint were posted in reply to a question posed by the advertiser.

The Board noted that social media is an advertising platform that requires monitoring to ensure that offensive material is removed within a reasonable timeframe and that content within a Facebook page should, like all other advertisement and marketing communication, be assessed with the Code in mind. The Board recognized the challenges in effectively monitoring social media to ensure that offensive material removed within a reasonable time.

The Board noted the advertiser’s response indicating its approach to managing its social media presence and advising its actions in moderating the Facebook page to immediately remove any material identified as potentially offensive.

The Board first considered whether the advertisement was in breach of Section 2.1 of the Code.

Section 2.1 of the Code states that Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.”

The Board noted the material provided by the complainant included the request by the advertiser, to provide a caption to the image of the man measuring the woman’s leg and the comments posted by members of the community in response. The Board considered that the captions posted, in response to invitation to provide a caption to the image, may be insensitive but were not discriminatory toward women.

The Board noted one user posted comment was “bunch of faggots.” The Board noted that

this comment can be used in a derogatory manner and considered that it is a term that can have a number of connotations and is used as part of the Australian vernacular. The Board considered that the posting of this comment on a Facebook page limits the audience that is exposed to such a comment and considered that the statement is not of itself material that vilifies a section of the community.

The Board determined that the advertisement did not depict material that discriminated against or vilified persons or sections of society and did not breach Section 2.1 of the Code.

The Board considered whether the advertisement complied with Section 2.2 of the Code which states, “Advertising or Marketing Communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.”

The Board noted that the advertisement did use an image of a woman which would appeal to the target demographic and encourage contribution by Facebook users. The Board considered that the image of the woman having her leg measured by the young man, had clear connection between the long length of her legs and the length of the ‘plank’ pizza. The Board considered that identifying and commenting on the length of the woman’s legs was not degrading to the woman and was not using sexual appeal in a manner that is exploitative and degrading and did not breach Section 2.2 of the Code.

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Board noted that Facebook has some inbuilt controls over access by minors to certain pages that and that a Facebook user makes a decision to access a specific page. The Board also noted that the activity and updates of Facebook friends can result in the receipt of unsolicited or unwanted material.

The Board noted that several comments contained mildly sexual innuendo and considered that the user posted content on the Facebook page were comments made by users of an appropriate age and generated with the intention of being humorous and to further encourage response from others. The Board considered that in the context of the Facebook medium the material did treat sexuality and nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.

THE INDEPENDENT REVIEWER'S RECOMMENDATION