



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0069/19
2	Advertiser	Nestle Australia Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	06/03/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Ethnicity
- 2.1 - Discrimination or Vilification Nationality

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement opens to a father and son sitting in a car. The father hands his son a Breakfast Bake telling him that it's made of porridge, before taking a bite. The son replies, "That's not how you make porridge". The father responds with his mouth full whilst chewing, "It's how you bake porridge". The son is insistent saying, "That's not how you make porridge". The father responds, "You canny understand me, I'm ya Pa". The father points to the Breakfast Bake in his hand and says "bake!". The boy looks at his father confused and says, "Are you saying make or bake?". The Advertisement closes with an end frame showing the new UNCLE TOBYS Breakfast Bake product range with the voice over of the father saying, "It's a new breakfast bake. B-... B-...".

THE COMPLAINT

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

I am Scottish by birth, education and upbringing. I am an Australian citizen and resident.



This advertisement mocks my Celtic ethnicity and my Scottish heritage as it displays a mocking stereotype in that:

1. the voices used by the actors mock the Scottish accent and pronunciation of words. Had the same actors been portraying an Indian, or African accent or that of an indigenous Australian it is likely the advert would be deemed offensive. The Actors are clearly not Scottish. There is no requirement for them to mock a person's speech, the simplest way would be to have Scottish Actors play the parts.

2. the Actors have red hair, this is a stereotype applied to persons from Scotland and Ireland. This stereotype is regularly mocked. I do not have red hair however believe this issue will cause offence.

Using racism and vilification, portraying different accents in an undermining derogatory manner, disrespecting cultural identity through mockery of accent. Principal key Australian business representing unfair representation of Australia, that Australia finds it acceptable to be racist and non-accepting of all cultures.

I am offended by the manner in which Scottish accents are denigrated in this advert. I consider that making fun of how an entire ethnic group speaks is offensive and I am certain this would not be tolerated if the advertiser used any other ethnic group that is resident in Australia today.

THE ADVERTISER'S RESPONSE

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

UNCLE TOBYS Breakfast Bakes are distributed and marketed in Australia by Cereal Partners Australia Pty Ltd (CPA). CPA is the local division of Cereal Partners Worldwide, an international partnership between Nestlé and General Mills.

Thank you for the opportunity to comment on the issues raised in the Complaints.

1. Codes Considered

In considering the Complaints and our response, CPA has reviewed the Advertisement in the context of all of the Codes the Ad Standards Community Panel administers, including the AANA Advertiser Code of Ethics (Code of Ethics) and the Food & Beverage Advertising & Marketing Communications Code (Food Code). As directed we have given particular consideration to section 2.1 of the Code of Ethics which is set out below:

2.1: "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."



We respond to the Complaints in detail below, however state from the outset that CPA considers the Advertisement complies in all respects with the Code of Ethics and Food Code.

2. The Advertisement

The Advertisement opens to a father and son sitting in a car. The father hands his son an UNCLE TOBYS Breakfast Bake telling him that it's made of porridge, before taking a bite of the Breakfast Bake. The son replies, "That's not how you make porridge". The father responds with his mouth full whilst chewing, "It's how you bake porridge". The son is insistent saying, "That's not how you make porridge". The father responds, "You canny understand me, I'm ya Pa". The father points to the Breakfast Bake in his hand and says "bake!". The boy looks at his father confused and says, "Are you saying make or bake?". The Advertisement closes with an end frame showing the new UNCLE TOBYS Breakfast Bake product range with the voice over of the father saying, "It's a new breakfast bake. B-... B-...".

3. Response

CPA asserts that the Advertisement does not a breach the Code of Ethics.

The Advertisement is a modern refresh of the iconic 80s advertisement for UNCLE TOBYS oats to launch new UNCLE TOBYS Breakfast Bakes, bringing back the nostalgia of the popular original advertisement featuring a boy with a Scottish accent. The iconic 80s advertisement was aired in 1989 and was an advertisement to launch UNCLE TOBYS instant porridge. The 80s advertisement celebrated the Scottish roots of oats and resulted in the adoption of the phrase "That's not how you make porridge" into the Aussie vernacular. The original advertisement can be viewed here:

<https://www.youtube.com/watch?v=UTcA-e6bqVY>.

The AANA Code of Ethics Practice Notes (Practice Note) defines the following types of behaviour and restricts depictions of those types of behaviour against people within certain groups:

- discrimination – unfair or less favourable treatment; and.*
- vilification – humiliates, intimidates, incites hatred, contempt or ridicule.*

CPA submits that the Advertisement is not a breach of the Code of Ethics in that it neither discriminates nor vilifies a person or group of people based on their nationality or race. In fact, CPA submits that the Advertisement taps into the rich heritage of the UNCLE TOBYS brand and fond memories of the much loved iconic 80s advertisement by modernising the familiar line to "It's how you bake porridge" in a humorous and relatable interaction between father and son. The tone of the Advertisement is light-hearted and amusing in nature. The use of Scottish accents is reminiscent of the iconic 80s advertisement with the memorable phrase "that's not how you make porridge". CPA considers that what portrayed is a harmless exchange between father and son which does not in any way make fun of the Scottish accent, instead it reflects a



common comical scenario that one can face of being misunderstood when talking to someone (even a family member) with their mouth full (despite the same language being spoken).

CPA considers the use of Scottish accents is justified in the context and serves a particular purpose. The clear intention of the segment is to draw upon the nostalgia of the iconic advertisement that was broadcast in the 1980's whilst unveiling to viewers a new oat breakfast product in a different and convenient format. In this way the Advertisement continues the message of convenience which was part of the original 80s advertisement and speaks to how the preparation and consumption of oats has changed over time. Initially from the traditional lengthy preparation method which required soaking of oats overnight before cooking in a saucepan (as prepared by those in Scotland), to the preparation method of cooking with instant oats in hot water and milk in a matter of minutes, to now consuming oats whilst on the move, straight out of the packet and in a baked format. The similarity of the words "make" and "bake", cleverly mirror this innovative shift.

The Advertisement does not make any disparaging, derogatory or demeaning comments in reference to Scottish people, nor is the father and son speaking with an accent in the Advertisement portrayed in a negative manner. It does not treat members of the community with Scottish heritage less favourably, or mock or ridicule Scottish people. The Advertisement is in line with the Practice Note which states "Advertisements can humorously suggest stereotypical aspects of an ethnic group or gender, provided the overall impression of the advertisements does not convey a negative impression of people of that group." It is important to point out that the actors playing father and son are of Scottish heritage. Further, the grandfather of the actor playing the son (who is Scottish), was present during the filming of the Advertisement.

The Advertisement was given a CAD Rating of W and was placed in programming accordingly. Our advertising agency and our media buyers and planners have taken care to ensure that the relevant audience for this Advertisement is P25-54 and the scheduling of our television commercials complies with the provisions of the Code of Ethics.

In light of the above and as the classification for the advertisement demonstrates, it is submitted that the Advertisement does not depict material that discriminated against or vilified any person or section of the community and therefore the Advertisement does not breach Section 2.1 of the Code of Ethics.

4. Summary

CPA takes the Complaints very seriously and by broadcasting this Advertisement did not intend to cause offence to the complainants, their family or any member in the community that is of Scottish heritage. CPA acknowledges the Complaints and the



importance of responsible marketing, however disagrees with any assertion by the complainants that the Advertisement is in contravention of any of the matters set out in Section 2 of the Code of Ethics. On this basis CPA respectfully requests that the Complaints be dismissed.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel viewed the advertisement and noted the advertiser's response.

The Panel noted that this television advertisement features a father and son in a car speaking in Scottish accents

The Panel noted the complainants' concern that the advertisement is discriminatory towards Scottish people.

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray 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 Panel noted the Practice Note to Section 2.1 provides the following definitions:

"Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."

The Panel noted the complainants' concern that the advertisement features overly-exaggerated Scottish accents which mock Scottish people.

The Panel considered the advertiser's response that the advertisement was a nostalgic reference to a previous campaign where a young boy states "that's not how you make porridge" in a Scottish accent.

The Panel considered that the advertisement's tone is light-hearted and humorous and that the father and son's portrayal of Scottish accents is not mocking but is consistent with a heavy Scottish accent, and the people are depicted as Scottish.

The Panel considered that the accents of the father son were nostalgic and a positive portrayal and did not amount to a negative stereotype of Scottish people.



The Panel considered that the advertisement did not depict people receiving unfair or less favourable and did not humiliate, intimidate or incite hatred, contempt or ridicule a person or section of the community on the basis of nationality.

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of nationality and determined that the advertisement did not breach Section 2.1 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.

