



**ADVERTISING
STANDARDS
BUREAU**

Level 2, 97 Northbourne Avenue, Turner ACT 2612
Ph (02) 6173 1500 | Fax (02) 6262 9833
www.adstandards.com.au
ACN 084 452 666

Case Report

1	Case Number	0416/13
2	Advertiser	Good Time Burgers
3	Product	Food / Beverages
4	Type of Advertisement / media	Print
5	Date of Determination	11/12/2013
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The advertisement features a woman lying on the beach in a bikini. The photo is focused on her bottom which has the contents of a burger including lettuce, tomato, cheese and a meat patty between the cheeks of her backside. The text reads: "Goodtime Burgers" and "The freshest fun between the buns."

THE COMPLAINT

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

A burger patty and accompanying lettuce etc is lodged in a woman's private part, the woman's body and private parts are objectified as something for people (probably men) to consume.

THE ADVERTISER'S RESPONSE

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

The purpose of the advertisement, as seen in The Beast was to raise awareness to a new restaurant opening in Bondi Junction. The image was anticipated to be eye-catching, an association with summer and memorable. There was no intention for the advertisement to be obscene in any manner nor to be offensive. As seen with the attached digital copy of the advertisement, the term “buns” can be interpreted in many forms and therefore a play-on-words was used in association with burger buns and the buttocks.

As stated, the advertisement has no intention to be obscene. The image which features a woman’s rear in the fore-ground is not heavily detailed. The image which acts as a burger bun does not feature obscene body-parts, rather uses the shape of a rear to form the shape of a burger. The purpose of the advertisement was and still is to be eye-catching, iconic, memorable and to ride on the coat tails of everything associated with Bondi Beach. We acknowledge Section 2 of the AANA Code of Ethics. Previous advertisements seen in the Eastern Hotel have never been in breach of this section nor have been overtly obscene or offensive.

It must be noted, the advertisement was approved by staff of The Beast magazine prior to publication. After having conversation with the publishers on the date of 8/11/13 it was confirmed the Goodtime Burgers advertisement would appear in the December issue of The Beast magazine. The conversation concluded, the advertisement would be both appropriate and entertaining.

We acknowledge Section 2 of the AANA Code and the standards which all advertisements must adhere to. It is understood all advertisements must respond to prevailing community standards and the relevant audience.

The Beast magazine has a circulation of 120,000 every month. The magazine’s circulation is done so through letter-box drop-offs in the Eastern suburbs beaches area and also left on shop-fronts. The magazine features Australian talent such as sportsman, local celebrities, comedians and charities.

We understand the audience of the Beast is not constricted due to the large readership and readily available access via mailboxes and shop-fronts. However, the prevailing community which is predominantly found in the beaches area of Eastern Sydney are in close relation to a casual environment which is associated with the beach and summer.

Although we acknowledge the Board may take a broad interpretation of “audience”, the advertisement does not appear in a public place, rather in a private forum with large readership. Therefore, in advertising in the Beast magazine, Goodtime Burgers expects some censoring to occur.

Based on Section 2.1 of the AANA, the advertisement does not discriminate women as the complain suggests. The image is not found to be highly detailed and therefore the lettuce burger patty may be lodged in the woman’s buttocks however is not “lodged in a women’s private part” nor does this objectify the woman’s parts can be consumed like a burger.

Undeniably, there is no grounds for discrimination or vilification on the basis of race,

ethnicity, nationality, age, sexual preference religion, etc. The complaint received on 20 November 2013 states sexual vilification and discrimination to be prominent. Firstly, the rear end is in the foreground of the image, whereas the woman's chest is in the background. The central area of the image is of a burger and bun and the gender appears in the background as a less predominant aspect of the advertisement. The image easily could have been of a male and would continue to have similar meaning for the purpose of the advertisement. Furthermore, the complainant states these characteristics of a female which appear in the Goodtime Burger advertisement, are evident as "something for people (probably men) to consume". Once again, the rear end is used to emulate the same shape of a burger bun and not used as a means to either objectify or vilify women.

Based on the findings seen in Section 2.1, the use of a woman's butt as a burger bun appears to be questionable. However, if the gender were changed, would such case be embraced differently? The advertisement in question from Goodtime Burgers, uses humour not to vilify woman nor to depict women in a negative impression. The particular body part is used to emulate something entirely different however has the same name and shape. Therefore the use of such body part is not used in a sexual manner, nor to promote a specific sexual activity. Based on the examples found in Section 2.1, this is further reiterated.

Based on Section 2.2 although the image is dicey there is no suggestion of exploitation, or degradation. The image employs a factor of humour and does not purposefully abuse women or the female gender. Similarly, the advertisement does not suggest women to be of lower character or quality.

Section 2.3 of the Code which is in reference to violence has no bearings on the advertisement in question.

Based on sex, sexuality and nudity found in Section 2.4, although aspects of suggestive sexuality arise, no explicit nudity or sexuality occurs. Based on the findings in Section 2.4, we can understand why the community may object to the advertisement in question. However, the advertisement was not placed in a public place and rather, was broadcast in a local magazine typically targeted at teenagers and older.

The image does not contain genitalia, nor presents private parts. In the image, it can be found that only the rear end is used and no private parts or obscenities are found. As stated in the code, care has been taken in the placement of the advertisement. Section 2.4 of the code states "more care should be taken in outdoor media than magazines, for example". Broadcasting in a relatively censored forum which can be shielded from children or impressionable individuals has occurred and therefore does not promote sexuality to the prevailed community. Based on contact previously had with the Beast magazine, the marketing team of Goodtime Burgers received confirmation that such advertisement would not be deemed inappropriate.

From the requirements of an advertisement found in Section 2.4, it is understood clear sexual innuendo exists. However, Goodtime Burgers did receive confirmation from the Beast magazine to go ahead with such advertisement and that this advertisement would be widely received and highly memorable.

Based on the language found in the advertisement, explicit terms are not used. Innuendo in

“freshest fun between the buns” exists however is not directly explicit to offend children or young people.

Therefore, Goodtime Burgers has acknowledged the complaint received 22 November 2013 due to the advertisement published in The Beast magazine. Please find above the appropriate response to the complaint. Goodtime Burgers acknowledges the complainant’s vilification however believes the advertisement to fall within the guidelines of Section 2 of the AANA Code of Ethics.

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 objectifies women in its depiction of a woman’s bottom as a burger with the contents of the burger between her bottom cheeks.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code 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 features a woman lying on the sand on a beach. She is positioned facing away from the camera and the focus is on her bottom which has the contents of a burger including lettuce, tomato, cheese and a meat patty between the cheeks of her backside. The text reads: “Goodtime Burgers” and “The freshest fun between the buns.”

The Board noted that the image appeared in the Beast magazine (a monthly magazine distributed to the beaches of Sydney’s East).

The Board noted that the woman is viewed from the back and that her upper torso and face are barely visible. The Board considered that the advertisement is using a play on words of burgers and buns and that the image is intended to be humorous in its depiction of a woman’s bottom as a burger.

The Board considered that, although the advertiser intended the image to be a humorous depiction, the close up image of the woman’s bottom and the portrayal of her bottom as a burger likened the woman to a piece of meat or object for consumption and objectified women. The Board also considered that this depiction of a woman as a burger is exploitative of women and degrading.

The Board determined that the advertisement did employ sexual appeal in a manner which is exploitative and degrading and that it did breach Section 2.2 of the Code.

The Board then 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 the text included with the image stated “the freshest fun between the buns.” The Board considered again that the advertiser’s purpose was to draw the attention of the viewer to the new store and that the image was intended to be a light hearted play on words. However the Board considered that the image is sexualised and that the use of the image in conjunction with the words “...fun between the buns” was a sexually related innuendo. The Board noted that the image appeared in a magazine that does not have primary appeal to children but agreed that the magazine is easily accessible to a broad audience and that that the advertisement’s sexualised image and text amounted to a depiction that did not treat sex, sexuality and nudity with sensitivity to the relevant audience.

Based on the above, the Board determined that the advertisement did breach Section 2.4 of the Code.

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

ADVERTISER RESPONSE TO DETERMINATION

I would like to confirm that I will not be using this advertisement again

I would like you to note on your case file the on line feedback from the article that the Sunday Telegraph ran on page 3 on the weekend where there was overwhelming support that the ad was not offensive

<http://www.dailytelegraph.com.au/news/nsw/look-closer-cheeky-burger-campaign-has-some-spitting-chips/story-fni0cx12-1226782712974>

