



ADVERTISING STANDARDS AUTHORITY

COMPLAINT NUMBER	15/445
COMPLAINANT	T. Fleming
ADVERTISER	Restaurant Brands Limited
ADVERTISEMENT	Carls Jr Television
DATE OF MEETING	10 November 2015
OUTCOME	Upheld, in part

SUMMARY

The television advertisement for Carls Jr's new El Scorcho Burger showed a woman walking into the Northpoint Ice Hotel with the burger in her hand. The woman begins to eat various ingredients from the burger, including "jalapenos, jalapeno poppers and habanero sauce." As the woman eats the various ingredients, the ice hotel starts to melt, she removes her fur coat to reveal a red bikini. The advertisement stated "the Thickburger El Scorcho gets hotter with every bite."

The Complainant was "disgusted" by the advertisement because the woman looked sexy eating a burger and appears in her underwear and was particularly concerned it played during a family movie.

The Complaints Board said there was a salacious tone to the advertisement but the overall theme was that the burger was so spicy that it melted the ice hotel and the woman had to remove her coat. It said this did not reach the threshold to be considered to offend against generally community standards when taking into account the overall context of the advertisement.

The majority said the placement of the advertisement was not appropriate for a family movie where children could be amongst the viewing audience due to its salacious nature. It said while it accepted the advertisement played at a time that would generally be considered PGR, Advertisers and Broadcasters needed to be mindful of the content of the of the programme in which advertisements are placed, and their likely audience.

The Complaints Board ruled to Uphold the complaint, in part.

[No further action required]

Please note this headnote does not form part of the Decision.

COMPLAINTS BOARD DECISION

The Chairman directed the Complaints Board to consider the advertisement with reference to Basic Principle 4 and Rules 4 and 5 of the Code of Ethics and Basic Principles 5 and 6 of the Code for People in Advertising.

The Code of Ethics required the Complaints Board to consider whether the advertisement contained anything which, in the light of generally prevailing community standards was likely to cause serious or widespread offence taking into account the context, medium, audience and product and whether it had been prepared with a due sense of social responsibility to consumers and society.

The Code for People in Advertising said advertisements not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people in society to promote the sale of unrelated products or services. Basic Principle 6 of the same code provided for humorous and satirical treatment of people and groups of people, provided that, taking into account generally prevailing community standards, the portrayal is not likely to cause serious or widespread offence, hostility, contempt, abuse or ridicule.

The Complainant was “disgusted” by the advertisement because the woman looked sexy eating a burger and appears in her underwear and was particularly concerned it played during a family movie.

The Complaints Board noted the response from the Advertiser which said, in part: “This particular Carl’s Jr. TV spot is no longer on air as it was used to advertise a limited time offer burger. The TV spot was presented to TV Cab before going to air and it was given a GXC rating - no kids shows.”

The Complaints Board then noted the response from the Commercial Approvals Bureau which said, in part: “The commercial advertises the new ‘El Scorcho’ hamburger which is made with very spicy Jalapeno chilli peppers. The commercial is set at the Norpoint Ice Hotel, a real hotel in Northern Sweden where the structure is kept permanently below freezing point at around -5°C. The furniture and chattels at the hotel are also made of ice.

The commercial tries to convey how spicy and hot the burger is by showing the hotel and its furniture melting, and by juxtaposing hotel guests fur-lined clothing with a swimsuit worn by an actress holding the very-hot hamburger.

The commercial has a very clear Fire vs. Ice motif and very high production value.”

The Complaints Board agreed. It said while there was a salacious tone to the advertisement, the overall theme was that the burger was so spicy that it melted the ice hotel and the woman had to remove her coat. The Complaints Board said the advertisement employed a subtle level of sexual appeal, however, this did not reach the threshold to be considered to offend against generally community standards when taking into account the overall context of the advertisement.

The Complaints Board was also of the view the advertisement employed an element of comedic hyperbole which was allowable under the provision of Basic Principle 6 of the Code for People in Advertising. As such, the Complaints Board said the advertisement did not reach the threshold to effect a breach of Rules 4 or 5 of the Code of Ethic or Basic Principle 5 of the Code for People in Advertising.

When considering the placement of the advertisement, a minority said the placement of the advertisement was appropriate, the Complaints Board noted the advertisement had been afforded a GXC rating and played during the family movie, *Epic*. The majority of the Complaints Board was of the view as the advertisement had been placed within the constraints of its allocated rating with a due sense of social responsibility.

The majority said the placement of the advertisement was not appropriate for a family movie where children could be amongst the viewing audience due to its salacious nature. It said while it accepted the advertisement played at a time that would generally be considered PGR, Advertisers and Broadcasters needed to be mindful of the content of the of the programme in which the advertisement is placed, and its likely audience.

In accordance with the majority, the Complaints Board ruled the advertisement had not been prepared and placed with a due sense of social responsibility and was in breach of Basic Principle 4 of the Code of Ethics.

Accordingly, the Complaints Board ruled to Uphold the complaint in part.

DESCRIPTION OF ADVERTISEMENT

The television advertisement for Carls Jr's new El Scorcho Burger showed a woman walking into the Northpoint Ice Hotel with the burger in her hand. The woman begins to eat various ingredients from the burger, including "jalapenos, jalapeno poppers and habanero sauce." As the woman eats the various ingredients, the ice hotel starts to melt, she removes her fur coat to reveal a red bikini. The advertisement stated "the Thickburger El Scorcho gets hotter with every bite."

COMPLAINT FROM T. FLEMING

I am disgusted that we were supposed to be watching a family movie....then this ad comes on where the chick is trying to be sexy eating a burger....then right at the end she is wearing red bra and undies!!!! definitely do not need my children to see this!!!! AM REALLY DISGUSTED AT THIS THAT IT WOULD HAPPEN ON TV IN FAMILY MOVIE!!!!!!

CODE OF ETHICS

Basic Principle 4: All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

Rule 4: Decency - Advertisements should not contain anything which clearly offends against generally prevailing community standards taking into account the context, medium, audience and product (including services).

Rule 5: Offensiveness - Advertisements should not contain anything which in the light of generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services).

CODE FOR PEOPLE IN ADVERTISING

Basic Principle 5 - Advertisements should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people in society to

promote the sale of products or services. In particular people should not be portrayed in a manner which uses sexual appeal simply to draw attention to an unrelated product. Children must not be portrayed in a manner which treats them as objects of sexual appeal.

Basic Principle 6 - Humour and satire are natural and accepted features of the relationship between individuals and groups within the community. Humorous and satirical treatment of people and groups of people is acceptable, provided that, taking into account generally prevailing community standards, the portrayal is not likely to cause serious or widespread offence, hostility, contempt, abuse or ridicule

RESPONSE FROM ADVERTISER, RESTAURANT BRANDS

This particular Carl's Jr. TV spot is no longer on air as it was used to advertise a limited time offer burger. The TV spot was presented to TV Cab before going to air and it was given a GXC rating - no kids shows.

RESPONSE FROM COMMERCIAL APPROVALS BUREAU ON BEHALF OF THE MEDIA

COMPLAINT: 15/445

KEY: CJ0118 30 1

RATING: GXC

We have been asked to respond to this complaint under the following codes:

Code of Ethics – Basic Principle 4; Rule 4; Rule 5

Code for People in Advertising – Basic Principle 5; Basic Principle 6

CAB approved this Restaurant Brands commercial on 19/09/15 with a GXC classification.

The commercial advertises the new 'El Scorcho' hamburger which is made with very spicy Jalapeno chilli peppers. The commercial is set at the Norpoint Ice Hotel, a real hotel in Northern Sweden where the structure is kept permanently below freezing point at around - 5°C. The furniture and chattels at the hotel are also made of ice.

The commercial tries to convey how spicy and hot the burger is by showing the hotel and its furniture melting, and by juxtaposing hotel guests fur-lined clothing with a swimsuit worn by an actress holding the very-hot hamburger.

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