

Decision of the ADVERTISING REGULATORY BOARD

Complainant	The Reformed Church Pretoria-Annlin
Advertiser	Kota Joe Roadhouse
Consumer/Competitor	Consumer
File reference	550 - Kota Joe - Reformed Church Pretoria-Annlin
Outcome	Upheld
Date	22 November 2019

The Directorate of the Advertising Regulatory Board (“ARB”) has been called upon to consider a complaint lodged by The Reformed Church Pretoria-Annlin against a billboard advertisement for fast food outlet, Kota Joe Roadhouse.

Description of the advertising

The advertisement includes an image of a woman lying on a couch eating a Kota Joe Waffle on a Stick product. A copy of the image is shown below.



Complaint

The Complainant has lodged the complaint against the backdrop of the recent events relating to crime and rape against women and children in South Africa and that advertising “where scantily clothed models are used to draw the attention of the consumers... cannot be condoned any more as this contribute to the image that women is a commodity to be used as and when needed and then discarded.”

The Complainant states that Kota Joe uses a suggestive image and slogan of a woman on a billboard advertisement that is offensive, unsavoury and degrading toward women. The Complainant further alleges that the relationship between food and the size of the billboard is quite insignificant.

Response

In response to the complaint, Kota Joe submitted that it is not a member of the ARB and does not submit to the jurisdiction of the ARB but provided a response to the ARB to explain the advertisement.

The Respondent denied all the Complainant’s allegations, arguing that not all advertising will appeal to all people and that they have in fact received several compliments on the billboard advertisement. The Respondent denied that the advertisement encourages any activity that may be harmful to a woman or is degrading to women and further that it does not generalise any gender stereotyping or negative gender portrayal. In addition, the Respondent stated that the advertisement is not aimed at children and in no way includes, refers to, incorporates or encourages anything that relates to children.

Application of the Code of Advertising Practice

The following clauses were considered in this matter:

Offensive advertising - Clause 1 of Section II

Gender - Clause 3.5 of Section II

Children - Clause 14 of Section II

Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

Jurisdiction

The Advertiser has submitted that it is not a member of the ARB and does not submit to the jurisdiction of the ARB. Accordingly, it is not bound by the ARB and the Code of Advertising Practice (“the Code”).

The Memorandum of Incorporation of the ARB states:

“3.3 The Company has no jurisdiction over any person or entity who is not a member and may not, in the absence of a submission to its jurisdiction, require non-members to participate in its processes, issue any instruction, order or ruling against the non-member or sanction it. However, the Company may consider and issue a ruling to its members (which is not binding on non-members) regarding any advertisement regardless of by whom it is published to determine, on behalf of its members, whether its members should accept any advertisement before it is published or should withdraw any advertisement if it has been published.”

In other words, if the Advertiser is not a member and does not submit to the jurisdiction of the ARB, the ARB will consider and rule on your advertising for the guidance of our members.

The ARB will, however, rule on whatever is before it when making a decision for the guidance of its members. This ruling will be binding only on ARB members and on broadcasters in terms of the Electronic Communications Act.

The ARB will therefore proceed to consider this matter for the guidance of its members.

Merits

Clause 3.5 of Section II states that *“(g)ender stereotyping or negative gender portrayal shall not be permitted in advertising, unless in the opinion of the ASA, such stereotyping or portrayal is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.”* In Clause 4.19 of Section I, “gender stereotyping”

is defined as “*advertising that portrays a person or persons of a certain gender in a manner that exploits, objectifies or demeans*”.

The Directorate first considered the use of the image of a woman lying on a couch to promote Kota Joe’s products. The Directorate sees no direct relevance or link between the woman, who is dressed in a mini dress with a low-cut top, with the waffle on a stick placed to her mouth (and not eating it), and the promotion of a fast food restaurant. She does not appear to be a waitress or in any way linked to a roadhouse selling fast food. She does not even appear to be *at* the advertised restaurant, given that she is lying on a couch. The item that she is eating (or, significantly, not eating) is not typical roadhouse fare, but a waffle on a stick (which the Directorate does accept is one of the Advertiser’s products) which appears to have been chosen for the suggestiveness of its shape. In the response, the Respondent did not explain the relevance of a woman lying on a couch to promote its products.

The advertising is reminiscent of old-fashioned, over-sexualised advertising that uses women to promote completely un-related products – the cliché of the woman in a bikini draped across the bonnet of a car. While the Directorate can see a possible link between the “old-fashioned” nature of a roadhouse, and this “old fashioned” advertising, this does not make it acceptable. Indeed, it is exactly that type of advertising mind-set that the Code seeks to address.

We now turn to the headline, “More than a mouthful. . .” The communication attempts to make a pun between the idea of a large helping of food, and the sexual pun that is implied by a sexy woman toying with a rather phallic waffle on a stick. Given the dominance of the woman in the communication, as compared to the much smaller, phallic, waffle on a stick, the pay-off line attaches to the woman rather than the food. For any adult viewer, the *primary* communication becomes the sexual pun. To argue otherwise would be naïve. (The situation might be slightly different if the primary image in the advertisement was, for example, an enormous burger that clearly is “more than a mouthful” with a sexy waitress in the background, possibly allowing for a much more subtle secondary pun.)

In this context, the Directorate agrees with the Complainant that the woman becomes objectified: included only for her value as a sexual object, and serving no other purpose.

The fact that the Advertiser sells food further emphasises the positioning of the woman as a consumable commodity, rather than a multi-layered human being.

The Directorate, in considering this matter, noted the following observation from the UK Advertising Standards Authority:

“Advertisers should avoid using sexualised imagery if this is irrelevant to the product, as this is likely to be considered offensive. In 2016 the ASA investigated an ad for a fast food company which featured two images of a woman wearing only underwear, a jacket and trainers. One image featured the woman sitting on the edge of the sofa with her cleavage emphasised, her hands between her legs and her mouth open in what appeared to be a sexual pose. As this sexualised image of a woman bore no relevance to the advertised product, the ASA considered that the ad objectified women and was likely to cause serious offence. (Harlequin Fast Food, 12 October 2016).”

And

“Innuendo that is intended to be light-hearted can be acceptable but degrading language or visuals can offend, even if intended to be humorous. A radio ad for an electrical store in which the voiceover stated "Yes, everyone's going to Budd Electrical! It's B, U, double D and we all love a double D, right? ..." was ruled against by the ASA in 2016. Whilst the ad did not contain any nudity and was not overtly sexual presented women as sexual objects by inviting listeners to focus on their bra size, which was also unrelated to the service. (Budd Electrical Ltd, 07 September 2016). Similarly a complaint about an ad for wine which featured a cropped image of a woman's torso accompanied by the text "taste the bush" was upheld by the ASA because the combination of concealing her face and the reference to her genitalia and oral sex was considered sexual objectification (Budge Brands Ltd t/a Premier Estates Wine, 04 November 2015)”

What becomes clear from the above is that the gratuitous use of sexualised women and sexual puns, with no product relevance, is unacceptable. The ARB can see no good reason to differ in its approach to similar matters, such as the matter at hand.

Accordingly, the advertisement is in breach of Clause 3.5 of Section II of the Code.

Given this, it is unnecessary for the Directorate to consider the remaining clauses at this time.

Sanction

Members of the ARB are advised not to accept the advertisement in its current format. The Advertiser is requested to remove the advertisement within the deadlines of Clause 15.3 of the Procedural Guide, which in the case of billboards is two weeks.