

## Decision of the ADVERTISING REGULATORY BOARD

Complainants	Thato Serapelo Kevin Harvey
Advertiser	Simba (Pty) Ltd
Consumer/Competitor	Consumer
File references	177 – Doritos – Thato Serapelo / Kevin Harvey
Outcome	Dismissed
Date	9 May 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider complaints by Thato Serapelo and Kevin Harvey against a television commercial for Doritos.

The Directorate notes that it received a number of other complaints against the same material that did not comply with the requirements of the Code for a valid complaint, and are therefore not being formally considered.

### Description of the advertising

The commercial comprises of two scenes set in a work environment. The first scene shows a man in a kitchen enjoying a packet of Doritos. As he is about to finish eating, a second man appears and asks the first man: “*Hey, are you gonna finish those?*” The first man replies: “*Sorry, they’re already gone.*” The second man then says: “*No they’re not.*”

*You left the best part.*” The first man starts saying, “*No, I am pretty sure they’re. . .*” and before he can finish his response, the second man grabs his hand and sucks his finger. After sucking the finger, the second man says: “*Mmm. Cheese. Hello Doritos*”. The first man looks taken aback by the second man’s conduct.

The second scene is set in an office space where a third man is seen enjoying a packet of Doritos and then wiping his hand on his pants. The same man who sucked the finger now suddenly appears and rips the third man’s pants off. He sniffs the pants and says, with great feeling: “*Doritos*”. The third man is stunned by this conduct.

The commercial ends with the statement: “Doritos. For the Bold”.

## Complaints

The first Complainant submitted that the conduct of the second man amounts to harassment at the workplace as well as sexual harassment. The second Complainant submitted that sucking another man’s finger and going into ecstasy is highly inappropriate.

## Response

The Advertiser submitted that it views any form of harassment (including sexual harassment in the workplace) as a serious matter and it is certainly not its intention to promote any form of harassment, directly or by association. It further submitted the commercial is an international commercial which has been flighted on other markets and to date no regulatory body has instructed it to remove the commercial from air.

Prior to screening the commercial, it conducted tests in South Africa and the feedback from vast majority of South Africans was that they enjoyed the commercial, particularly for its humorous nature. Further feedback from most of the tested consumers was that the commercial is memorable and that it provides amusement and happiness. The complaints of both Complainants are in stark contrast with this research.

There are only two complaints received and this is indicative of the of the degree of social concern. The commercial was initially screened on 18 March 2019 and since then it has been flighted over a 1000 times and has an audience reach of almost 25 million

viewers. The advertiser has received positive feedback from viewers on social media such as Twitter and Facebook, as well as in direct correspondence to the Advertiser. The commercial is light-hearted and should not be taken literally, and one cannot reasonably interpret the commercial as condoning or promoting harassment in the workplace, or inappropriate behaviour. The scenarios in the commercial are clearly over-the-top. The reasonable and objective take-out of the commercial is clearly hyperbolic and intended to be a humorous execution showing the lengths people would go to experience the great taste of Doritos. The commercial is meant to be interpreted as an over-the-top, tongue-in-cheek execution promoting the great taste of Doritos.

## Application of the Code of Advertising Practice

The following clauses were considered in this matter:

Offensive advertising - Clause 1 of Section II

Legality - Clause 3.3 of Section II

## Decision

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

The Complainants submitted that the commercial is offensive in that it promotes and/ or condones sexual harassment in the workplace, and that showing such actions is inappropriate. The Advertiser essentially refuted the complaints on the basis that the commercial is hyperbolic and humorous.

The Directorate starts by noting that the ARB is not the “taste police”. It accepts that some viewers will find the actions in the commercial, particularly sucking a stranger’s fingers, to be in bad taste. However, the question before the Directorate is whether this amounts to offensive behaviour, or condones sexual harassment.

The Directorate is convinced that the commercial does not contravene the provisions Clause 1 of Section II. This view is precipitated by the fact that it is unrealistic that a colleague could or would openly suck one’s fingers or rip one’s pants off for Dorito

crumbs as shown in the commercial. The manner in which these actions are depicted is clearly unrealistic and over the top. For example, the kind of trousers used in the commercial are not those which an ordinary office worker would wear to work, and the action shown could not be carried out in a real work place. The commercial is clearly intended to be taken humorously and not literally.

For much the same reason, the Directorate is further convinced that the commercial does not promote or condone sexual harassment at work. While it is arguable that if the depicted actions were to actually happen in real life, depending on the circumstances, it would amount to sexual harassment, the actions are so unrealistic and over-the-top that no reasonable consumer would consider imitating the commercial. In addition, the commercial makes it clear, from the character's strange demeanour and the reactions that his colleagues have, that this behaviour is not acceptable, normal or desirable.

**In the circumstances, the Directorate finds that the commercial is not offensive as alleged by the Complainants and therefore it is not contravention of Clause 1 of Section II of the Code of Advertising Practice. Further that the commercial does not promote or condone any illegal activity and therefore not in contravention of Clause 3.3 of Section II of the Code.**