

## Decision of the ADVERTISING REGULATORY BOARD

Complainant	CLAIRE SEARLE
Advertiser	UNILEVER SOUTH AFRICA (PTY) LTD
Consumer/Competitor	CONSUMER
File reference	11 - UNILEVER - CLAIRE SEARLE - 09-11-18
Outcome	Dismissed
Date	29 November 2018

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Claire Searle against a YouTube advertisement for Unilever's Axe Gold Body Spray.

### Description of the advertising

The commercial shows a young male adult spraying himself with the advertised product. He is then shown at a house party, where someone hits the bullseye with a dart. As everyone is high-fiving one another, the protagonist is left hanging, and the words "YOU AWKWAAARD" appear on screen. At the start of the commercial, the background music contains lyrics to which the Complainant objects.

## Complaint

The complainant submitted that the commercial itself is pretty harmless, but the song used is extremely inappropriate, because the lyrics clearly say "suck my balls".

## Response

Unilever submitted that in its view, the alleged lyrics would potentially be contrary to the provisions of Clause 1 of Section II. However, it firmly denied that the song used in the commercial in fact contains the alleged lyrics, i.e. "suck my balls".

Unilever confirmed that the actual lyrics used in the backing track of the commercial originate from the song titled, "Pure Gold (Dumb Bunny & Joseph Remix)", and read as follows:

*"Bam Sima Bamwa Sima Sima Ala (x3)*

*Bam Sima*

*Bam Sima*

*Bam Sima Bamwa Sima Sima Ala (x3)".*

It is therefore apparent that the above lyrics are, in fact, non-lexical vocables (i.e. a form of nonsense syllables used in a wide variety of music), and do not contain the alleged lyrics. The song has been misinterpreted by the Complainant.

Unilever submitted videos of Diederik van Middelkoop, an Axe music producer, and Anna Maria Warnher, a media lawyer for Lynx, dismissing the notion that the commercial contains the alleged lyrics.

## Application of the Code of Advertising Practice

The following clauses were considered in this matter:

Offensive advertising – Clause 1 of Section II

## Decision

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

The Complainant submitted that the song in the commercial is inappropriate as it contains the lyrics “suck my balls”. The Respondent, on the other hand, refuted the Complainant’s allegation and submitted that the Complainant misheard the lyrics, as the song does not contain the alleged lyrics.

It is clear from the submissions that the Complainant is not the only person who has “misheard” the lyrics. What is not clear, and given the below, not relevant, is whether this was deliberately crafted to create this possible impression.

This said, the song contains the following lexicons “BAM”, “BAMWA”, “SIMA” and “ALA”. The Respondent provided the Directorate with videos wherein the song producer, as well as the lawyer of the media house that participated in the production, explain their position regarding the content of the song. These explanations are somewhat tongue in cheek, but do contain clear denials that the lyrics of the song are “suck my balls”. It is difficult for the Directorate to dismiss these denials.

That said, the Directorate notes that the defence that the lyrics are nonsense syllables would not in itself be a complete defence in all circumstances. If the lyrics clearly sounded like “suck my balls” and the lighting was inappropriate in that context, the fact that the lyrics are nonsense syllables that just happened to clearly sound like “suck my balls” would not necessarily be a defence.

However, in this case, the Directorate notes two things:

- The lyrics do not sound incontrovertibly like “suck my balls”. It is possible to hear this, especially if one is expecting it, but various members of the Directorate heard different things;
- Even if one hears the lyrics as such, the complaint is lodged against the commercial on YouTube. Young children should not have unfettered access to the internet and to YouTube, and as such should not have unsupervised access to the commercial in the medium complained against. Similarly, young children

should not have unfettered access to social media that might provide the link to this YouTube video.

It is also noted that similar commercials have been flighted worldwide, and there do not appear to be complaints or decisions against them. The potential offence appears not to be widespread.

**In the circumstances, the Directorate finds that the commercial is not offensive in terms of Clause 1 of Section II of the Code of Advertising Practice.**