

Decision of the ADVERTISING REGULATORY BOARD

Complainant	Piet Nienaber
Advertiser	MultiChoice (Pty) Ltd
Consumer/Competitor	Consumer
File references	32 - Showmax - Piet Nienaber - 10 - 12 - 18
Outcome	Dismissal
Date	31 January 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Piet Nienaber against a Youtube commercial for Showmax.

Description of the advertising

The commercial essentially shows a call centre employee who is completely distracted watching Showmax on his phone.

He is rude to a caller, and walks away from his desk pulling along office equipment as he watches the movie. As he walks past a bank of pictures, we see that he used to always be the employee of the month.

He takes a fellow employee's sandwich, and returns it to her bitten; and he runs his finger through the icing of a birthday cake.

The following wording appears towards the end of the commercial:

"GET 3 MONTHS FREE SHOWMAX"

"+15GB FREE SHOWMAX DATA"

"ZERO BUCKS GIVEN"

"showmax.com/Vodacom"

Complaint

The Complainant submitted that the underlying message being portrayed in the commercial is a complete disrespect for the employee's work environment and fellow workers. The commercial is shown on different channels and viewed by young people, who get the wrong impression of how to behave at work.

Response

The Respondent submitted that the commercial is Showmax Vodacom Zero Bucks promotion targeting Vodacom customers. Under this promotion, Vodacom customers who add Showmax to their bill get three months' free Showmax and 15GB of free data (3 GB per month for three month) to watch Showmax. The premise of the commercial is that a star

employee is captivated watching Showmax using the zero bucks benefit to such an extent that they neglect their work duties to humorous effect.

The Respondent submitted further that the commercial does not encourage irresponsible behaviour as the commercial is humorous and satirises how a person with zero concerns could act in the work place. The concept of a poorly behaved employee, used as an example of the type of behaviour a colleague or customer would not approve of is already well-established as an acceptable device to use in a commercial, and this instance is no different. It is clear from the reaction from his colleagues that his behaviour is destructive to the work environment. Not a single employee is looking at him approvingly.

It is clear therefore that the commercial does not, in any way, condone irresponsible behaviour. The Respondent submitted that the commercial may also be interpreted as demonstrating the effect the product being advertised may have on people and therefore not advisable to consume in the work environment. The results of the actions by the employee are not reflected in a positive light in anyway. The commercial does not feature children and is not addressed to children.

[Application of the Code of Advertising Practice](#)

The following clauses were considered in this matter:

Offensive Advertising - Clause 1 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.

The Complainant submitted that the underlying message in the commercial is a complete disrespect for the employee's work environment and colleagues. Further, he felt that the commercial will negatively influence young people about work place behaviour.

The question before the Directorate is whether the Respondent's commercial is offensive for the reasons raised by the Complainant.

The Code provides in Clause 1.2 that *"Advertisements should not contain nothing that is likely to cause serious or wide-spread or sectoral offence. The fact that a particular product, service or advertisement may be offensive to some is not in itself sufficient grounds for upholding an objection to an advertisement for that product or service"*.

In KFC / Rhoda Heyns and Another – 20 – 11 – 18, the Directorate held *"From the material at hand, it is the Directorate's view that the commercial is set humorously in that South Africans, in general, do not communicate in the manner the 'public servants' in the commercial do. Further, the first character continues to serve the public after consuming the advertised product.*

The Respondent was responsible in selecting an occurrence that is not enjoyable but tolerable and used it in such way that the public can laugh at it. It is unfortunate that, as it is a reality, not everyone will laugh at the manner in which the situation is presented, some will be offended.

It is the Directorate's view that there is nothing in the commercial that seeks or lands to offend the general public as suggested by the Complainants."

The above principle applies to the matter in hand. It is a reality that some employees tend to neglect their work duties by chatting on social media on their cellular phones or playing computer games at work. This is used in an exaggerated manner in the commercial to

humorous effect. It is clear that the conduct of the star performer is highly exaggerated and humorous. He does a number of things that no employee would do, no matter how distracted. The commercial communicates how distracting the Showmax offer is in a totally over the top way, and the hypothetical reasonable consumer would not take it as a suggestion of what is normal and acceptable behaviour in a workplace – at least not by a person who meant to keep their job.

This is underlined by the fact that the co-workers do not approve of the actions, or find them funny. In addition, the employee eventually leaves the work place – using an emergency exit – clearly knowing that he cannot watch his Showmax and keep his job at the same time.

The Directorate is of the opinion that the hypothetical reasonable person will understand that they cannot behave like this in the workplace.

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

The second question is whether the commercial would harm children and young people, by suggesting that the portrayed behaviour is acceptable in the work place. The Directorate shared the Complainant's discomfort with the idea of children thinking that it is acceptable to take someone's clearly marked food or run your finger through the icing of a birthday cake.

However, given how over-the-top the commercial is, the Directorate is convinced that no child watching the commercial would take it as a literal portrayal of how one SHOULD act in the workplace, but rather as a portrayal of bad behaviour in the workplace.

The commercial does not contravene Clause 14 of Section II of the Code of Advertising Practice.