

Decision of the ADVERTISING REGULATORY BOARD

Complainant	Christine Robinson
Advertiser	Jangacore (Pty) Ltd t/a Teazers
Consumer/Competitor	Consumer
File reference	Teazers – Christine Robinson – 15-11-18
Outcome	Dismissed
Date	6 November 2018

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Christine Robinson against a mobile trailer advertising Teazers.

Description of the advertising

The billboard in question is pictured here:



Complaint

The Complainant felt that the advertisement is sexually orientated and inappropriate for a trailer on the pavement seen by all ages of children. She referred to the slogan 'We are not bakers but we have the best buns' and submitted that the woman leaning forward suggests anal sex.

Response

All reasonable attempts were made by the ARB to elicit a response from the Advertiser but the Advertiser did not respond.

The Directorate of the ARB had no other option but to proceed to make a decision based on the information before it for the benefit and guidance of the ARB members.

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.

Jurisdiction

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 you are not a member and do 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.

Merits

Clause 1 of Section II states “No advertising may offend against good taste or decency or be offensive to public or sectoral values and sensitivities, unless the advertising is reasonable

and justifiable in an open and democratic society based on human dignity, equality and freedom.” It also clarifies that a particular advertising may be offensive to some and it is not sufficient grounds for upholding an objection.

Clause 14 of Section II states, *inter alia*, that advertisements should not cause any harm to children.

In considering whether an advertisement is offensive, consideration will be given, *inter alia*, to the context, medium, likely audience, the nature of the product or service, prevailing standards, degree of social concern, and public interest.

The Directorate notes that it has to consider the advertisement from a reasonable perspective of a viewer who is not overtly sensitive or hypercritical.

The essence of the complaint is that the Complainant finds the advertising offensive and inappropriate for a public space where children might see it. The Directorate notes that it is limited in its mandate to considering the issues raised in the complaint, and cannot widen its consideration to other potential issues with the advertisement.

In unpacking the complaint, the Directorate starts by noting that at least part of the complaint appears to relate to a discomfort with the Advertiser’s service. It appears *ex facie* that the services offered by the Advertiser are legal and therefore are allowed to be advertised, in line with the rules in the Code.

The question is whether or not the half shown body of the woman on the advertisement, wearing only underwear, is offensive, as this is what is raised in the complaint. The Directorate does not agree with the Complainant that there is any reasonable inference of

anal sex. The woman pictured is wearing underwear, and is standing up (not bending forward as alleged) with her hands on her hips. There are no potential sexual partners pictured. The hypothetical reasonable person would not reasonably draw an inference of anal sex from this image.

The business of the Advertiser is to provide strip shows, and the image is consistent with this service. Many consumers experience a discomfort with the advertising because this may be a service that they take issue with, either for puritanical or women's rights reasons. However, it remains a legal service that is entitled to advertise.

The image in the advertisement is in line with images for clothing used in advertising, and is no more offensive in terms of nudity and sexuality than what one will see on a beach. The pay-off line makes a pun on the word "buns", which only an adult who is familiar with this colloquial term for buttocks will understand. The image is consistent with the pun.

The overall takeout of the advertisement is intended to be humorous and a hypothetical reasonable adult would understand it as such. A child who is exposed to the advertisement would probably not understand the pun, and would therefore not understand any sexual inferences from the billboard. The Directorate understands that the advertisement might spark questions from an inquiring child, and might result in an uncomfortable conversation for the parent. This is, however, not enough to justify an order to withdraw the advertising, especially in a world where children are being exposed to more, younger.

Given the above, the Advertiser's trailer advertisement is not in contravention of Clause 1 of Section II or Clause 14 of Section II for the reasons raised in the complaint.