
Decision of the ADVERTISING REGULATORY BOARD

Complainant	Professor Susan Goldstein
Advertiser	Volkswagen of South Africa (Pty) Ltd
Consumer/Competitor	Consumer
File reference	VW - Prof Susan Goldstein
Outcome	Upheld
Date	26 November 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Professor Susan Goldstein against a radio commercial advertising the Volkswagen Amarok vehicle.

Description of the advertising

The commercial sets the scene, in an obviously exaggerated manner, of a man shopping for shoes with an apparently female partner. The voiceover is as follows:

“It’s dusk and you’re in unfamiliar territory, surrounded by predators hunting for fresh prey. And they found it. 50% off all shoes. They attack, lunging mercilessly. As you guard the 12 shopping bags, seated on a bench alongside the other men, you watch the feeding frenzy take place. This is Shoe Sale Country and you don't belong here, man. This is not your habitat, so go where you belong in the V6 Amarok...Visit your Volkswagen dealership for great Amarok V6 offers today, man.”

Complaint

Professor Susan Goldstein complained that the commercial is extremely sexist, saying men are out of their environment or comfort zone when shopping for shoes. She submitted that the commercial is gender stereotyping and, in an environment of toxic masculinity and among the highest rates of gender-based violence in the world, this is harmful.

Response

Volkswagen responded by stating that the commercial was intended as a parody or hyperbole and that it consists of a harmless exaggeration of a real-life scenario intended to amuse listeners. They submitted that the reference to “Shoe Sale Country” makes it clear that this is a fictional world and no reasonable person would assume that the Advertiser’s use of the paradoxical scenario is intended to create a negative gender stereotype. The Advertiser submitted further that the parody or hyperbole does not promote or depict any violence against one gender. The Advertiser believes that the commercial falls within the Code’s definition of hyperbole, as set out in Clause 4.2.3 of Section II of the Code. The Advertiser goes on to mention that the Directorate should consider the fact that there is only one complaint, indicative that the reasonable person has heard the commercial for the purpose it was intended, in other words to be humorous. They mention the following factors taken from Clause 1.2 of Section II as clearly demonstrating the fact that the commercial is not in breach of the Code: “the context, medium, likely audience, the nature of the product or service, prevailing standards, degree of social concern and public interest.”

Application of the Code of Advertising Practice

The following clauses were considered in this matter:

- Offensive advertising- Clause I of Section II
- Unacceptable advertising- Gender - Clause 3.5 of Section II.

Decision

The Directorate considers the complaint against the background of the following clauses and definition.

Jurisdiction

The Advertiser submitted that it regards it appropriate to respond to the complaint despite it not being a member of the ARB. However, this should not be considered a waiver of its rights, which remain fully reserved.

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 the advertising for the guidance of its 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 1.1 of Section II of the Code states that 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.

Clause 1.2 goes on to state that advertisements should contain nothing that is likely to cause serious or wide-spread or sectoral offence. The Clause then states that 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.

Clause 3.5 of Section II deals specifically with gender and states that gender 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.

The Code defines “gender stereotyping” as advertising that portrays a person or persons of a certain gender in a manner that exploits, objectifies, or demeans them.

The Directorate must consider the commercial from the perspective of a viewer who is not over sensitive or hypercritical in deciding whether the gender stereotypes portrayed are harmful or demeaning.

The Directorate accepts the Advertiser’s assertion that the commercial is clearly a hyperbole or parody and exaggerates a scenario for humorous effect. However, the Complainant is correct that South Africa is a country fraught with “toxic masculinity”, gender stereotyping and, most concerning of all, very high rates of gender-based violence.

It is the opinion of the Directorate, and supported by international movements in this regard, that the use of gender stereotypes in advertising contributes to the ongoing and systemic gender inequality so prevalent in South African society. The commercial entrenches the gender stereotype that men do not like to shop and feel out of their depth in a shoe sale environment. Furthermore, the continued emphasis on the word “man”, inviting “man” to test drive the VW vehicle, conveys the message that the vehicle in question is for men, marketed at men and driven by men. The overall take out is that there are certain environments in which either men or women are more comfortable and where they naturally belong – women are comfortable shopping for shoes, and men are comfortable driving high-end bakkies. The analogy drawn in the commercial between shoe shopping and a frenzied hunt – “in unfamiliar territory, surrounded by predators hunting for fresh prey”; “They attack, lunging mercilessly”; “the feeding frenzy” – has two

outcomes. It firstly creates the impression that the shoe shopping women are in their natural environment, acting purely on animal instinct. It secondly compares women to wild animals, as compared to the more civilised male characters who observe them (“you watch”).

The Directorate takes guidance from the ASA in the UK, which, in 2018, introduced new rules on gender stereotyping in advertising. The UK ASA carried out research into gender stereotyping and concluded that advertising must “not include gender stereotypes that are likely to cause harm, or serious or widespread offence”.

The rules were supported by additional guidance, helpfully summarised as follows: “a wide body of evidence showed that certain types of gender stereotypes, and ways of depicting gender stereotypes, could negatively reinforce how people think they should look and behave, and how others think they should look and behave, due to their gender. This can lower their self-esteem and limit their aspirations and ability to progress in key aspects of their personal and professional lives, with harmful consequences for them and for society as a whole.”

In the VW commercial, women are portrayed as frivolous, instinct driven and irrational shoppers, while men are encouraged to seek “real” adventure.

The question is whether the stereotypes in the commercial are harmful or simply humorous and therefore harmless. The Directorate must consider the commercial and the use of *prima facie* harmless gender stereotyping against the backdrop of the current state of South African society, the context and the *boni mores*. This is borne out by the factors mentioned in Clause 1.2 of Section II, also referred to by the Advertiser in its response, and discussed below.

While the context of the commercial is an intended humorous one and an exaggerated scenario, the context of the country at large is one filled with negative gender stereotypes, gender inequality and gender-based violence. The commercial was aired on Radio 702, a popular South African talk radio station, with a diverse listenership. The likely audience is a broad range of South Africans, from all walks of life. The product is a high-end car or “bakkie”, which should be a product advertised, marketed and sold to both men and women. The prevailing standards in South Africa have been briefly alluded to, but to re-

emphasise, any advertising which may cause offence, must be considered in the context of “an open and democratic society based on human dignity, equality and freedom.” [Our emphasis.] Equality is key to the current complaint, and this goes hand in hand with public interest. It is not in the public interest for any kind of gender stereotype to be perpetuated in a country where gender equality is under constant strain. Lastly, “degree of social concern” does not mean the number of complaints regarding a commercial, but rather whether the issue in question is of serious social concern. There are arguably fewer issues of greater social concern than gender in South Africa and, however humorous and light-hearted the intentions may be, the constant entrenchment of gender stereotypes has no place in an open and democratic South African society, based on human dignity, equality and freedom.

In conclusion, the Directorate acknowledges the attempt at humour, but is of the view that in the current climate prevailing in South Africa, there is no room for any type of gender stereotyping, however harmless these may seem at first glance. The commercial does indeed cause offence by condoning and legitimising gender stereotypes.

It is for this reason that the Directorate concludes that the commercial is in breach of both Clause 1 and 3.5 of Section II of the Code.

Sanction

The Advertiser is requested to withdraw the commercial in accordance with the provisions of Clause 14 and Clause 15.3 of the Procedural Guide. In the case of radio advertising, this is immediately as deadlines permit.

Members of the ARB are instructed not to accept the radio commercial for publication.