

ADVERTISING STANDARDS COMPLAINTS BOARD

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DECISION**Meeting 21 January 1997****Complaint 96/278**

Complainant: Z Dhoray

Advertisement: Lux Body Wash (Morocco)

Complaint: An advertisement for Lux Body Wash screened on TV3 (LRD/30/0257). The advertisement was set in Morocco and featured a woman being washed with soap standing behind a sheet. The woman is then pictured in a shower washing with Lux Body Wash. She is then seen walking in a village with a western-style dress on.

The Complainant said:

“As a Moslem mother of three boys (Ages 13,11, 7 years), I find that most of the advertisements which are shown in television daily, are very disgusting. I am fed up because woman body is used as sex object to sell the product which is being advertised in the television.

Usually I would instantly change the T.V. channel if I find the advertisement not to my liking. Unfortunately, this advertisement that is mentioned above has really caught my eyes. I am complaining it on religious ground, especially the dome of the mosque, the recitation of Holy words, few Moslem ladies and a young boy are being portrayed in this advertisement.

It is unacceptable to show the naked lady who used the body liquid in her shower. In an Islamic country, she will not be allowed to walk on the street in that transparent dress on her body. How does the young boy, who is trying to snap her photo, know how to appreciate her body? He should be at school instead of running around trying to capture her beauty.

My friends and I have shared the same view. We hope you will look at this matter urgently. We would like this advertisement not to be shown on air because it is very insulting to our religion.”

Relevant Provision

Code of Ethics

Rule 5 which states:

“**Offensiveness** - Advertisements should not contain anything which in the light generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services).”

The advertiser and their advertising agency, through their lawyers, Collins May & Southall, said:

“Given the nature of the complaint and the context of the advertisement it is accepted that rule 5 is the relevant rule for consideration. Our comments are confined to rule 5. Our client’s position in respect of all other provisions of the codes is reserved. If the Board considers any other code or rule our client would require the opportunity to comment.

To assist the Board in its deliberation we confirm the following details.

1. The advertisement was filmed in Morocco, a predominantly Muslim country. Moroccan law does not fully impose the Sharia (moral law of the Koran). Muslim women would observe Shador (muslim dress standards for woman). There are many (predominantly) tourist areas in Morocco in which western clothing would be acceptable.
2. A Moroccan wardrobe consultant was employed during the production of the advertisement for input on dress and background. Apart from the central figure in the advertisement the people appearing in the advertisement were Moroccans. (See attached letter of Zerual Jmia).
3. There are two versions of the advertisement, a 45 second version and a 30 second version. The 45 second version begins with a chant which can roughly be translated as “bountiful god”.
4. The purpose of the chant was to create an atmosphere for the advertisement and to define the location for the viewers. The chant would have no official usage in Moslem countries.
5. There is no depiction of a mosque in the advertisement.

Our comments in relation to the complaint deal with the issues raised by the Complainant Mrs Dhoray, the duplicate complaint by the Complainant Ms Arbor does not appear to raise issues of substance in relation to rule 5.

The Complainant raises two issues which are separate but related. The first issue relates to the portrayal of the central figure in the advertisement. The second issue relates to the portrayal of Islamic song, music, words and images.

In respect of the portrayal of the woman in the advertisement, our comments are as follows:

1. The Complainant states that she is “. . . fed up because woman body is used as sex object to sell the product which is being advertised in the television”. The Complainant also states that “It is unacceptable to show the naked lady who used the body liquid in her shower.” These comments reflect the views of the Complainant in respect of the portrayal of women in advertising. The Complainant’s view is a personal one and cannot be said to be representative of Moslem people generally. (See attached letter of Zerual Jmia). Our client is confident that the vast majority of New Zealand viewers would not be offended by the portrayal in the advertisement. There was certainly no intention to cause any offence. The Complainant also states that “I find that most of the advertisements which are shown in television daily, are very disgusting.” This may be her personal view, but it would not be a view that prevails generally in our society.

2. The advertisement was made for a predominantly western audience. There is an inherent conflict of values between the Islamic religion and some aspects of western culture. The Board is not required to attempt to resolve that conflict but to apply the relevant rule. In this case the Board must decide whether the advertisement is likely to cause serious or widespread offence in the light of generally prevailing community standards. The Complainant’s view is not one that would generally prevail in the community and the depiction of the woman in the advertisement is not likely to cause serious or widespread offence.

3. The portrayal of the woman’s body in the advertisement is done tastefully and decently. The images which the Complainant specifically objects to are the portrayal of the woman in the shower applying the product to her body and the portrayal at the end of the advertisement of the woman strolling through a market in western style dress. The portrayal in the shower is of the product being applied to smooth and attractive skin. In line with previous Board decisions it is appropriate for advertisements to portray products relating to skin care being applied to skin. The Board has consistently ruled that portrayals of this nature will not be considered offensive. (See for example 93/83, 95/255 and 96/179).

4. The Complainant states “In an Islamic country, she will not be allowed to walk on the street in that transparent dress on her body.” The dress worn by the subject is attractively cut but not transparent. Our client accepts that a dress of the type worn by the subject would not be acceptable in many parts of the Islamic world. As already noted, the Board is not required to measure the advertisement against Islamic standards. As noted above there are areas in Moslem countries (predominantly tourist areas) where western dress is acceptable. The presumption must be that the portrayal occurs in a place where western dress is acceptable.

The second issue raised by the Complainant relates to the portrayal of Islamic religious and cultural symbols in the advertisement.

Our comments in relation to that issue are as follows:

1. The Complainant states that “I am complaining (about) it (the advertisement) on religious ground, especially the dome of the mosque, the recitation of Holy words, few Muslim ladies and a young boy are being portrayed in this advertisement.” As stated above there is no mosque portrayed in the advertisement. In our submission even if the advertisement did portray a mosque (as part of setting the scene in the advertisement) there would be no serious offence. However, in the circumstances it may be that the Complainant’s reaction was in part due to her mistaken belief that the advertisement portrayed a mosque. Other than stating that her complaint is on “religious ground(s)” the Complainant does not elucidate as to why she finds the portrayal of Islamic cultural and religious images offensive.
2. The Board has considered the depiction of various religious and cultural images in a number of previous decisions. The Board’s consistent view has been that advertisements may portray religious and cultural symbols as long as that portrayal does not denigrate the culture or religion that those symbols represent and the portrayal is done in a way that will not cause offence. The portrayal of Islamic images in the advertisement is done in a neutral way. There was certainly no intention to denigrate, mock or ridicule the Islamic religion or culture. The setting for the advertisement was designed to convey an atmosphere and the images, chant and music used set the background for the portrayal of the mystique of feminine beauty. It was not designed to make any association between Moslem spirituality and the product. To uphold the complaint purely because the advertisement portrayed religious and cultural images would be inconsistent with the Board’s previous decisions and would create a precedent that would unreasonably restrict the freedom of advertisers. The particular events portrayed could occur in some parts of particular Moslem countries without condemnation. There is no misrepresentation which could be construed as offensive or denigratory.
3. In Decision 92/139 the Board ruled that the use of the song “He’s got the whole world in his hands” was not offensive. The advertisement was for Mastercard. The Board was of the view that the song was a religious song but its use would not cause undue offence. In Decision 95/210 an advertisement containing a photograph of a Buddhist monk, apparently in the company of a prostitute, was not considered by the Chairman to be offensive and therefore a complaint was not accepted. Decision 96/11 (Chairman’s ruling) ruled that a mock depiction of the afterlife as a place where every channel on television showed the Little House on the Prairie was not offensive. In Decision 96/107 the Board ruled that a depiction of Indian washer people was not offensive. The advertisement was for a washing machine. The people portrayed in the advertisement were pictured wearing traditional clothing. The people portrayed in the advertisement subject to Complaint are wearing traditional clothing. As this line of decisions demonstrate the Board’s consistent approach has been that the portrayal of religious and cultural images will not of itself cause serious or widespread offence. The exceptions (example Decision 94/282) have been examples of extreme cultural insensitivity. There is no (and there should not be) any blanket prohibition on the

Board does not indicate that the views of the Complainant reflect those of the Moslem community at large.

7. The Complainant has indicated that she finds most television advertisements "disgusting". It is clear that the Board should not base its decisions on the particular sensitivities of individuals but rather on what it considers to be the generally prevailing community standards. On that approach, it is difficult to conceive of anything in the advertisement that would offend.

For the reasons stated above the complaint should be not upheld."

On behalf of the media the Television Commercial Approvals Bureau said:

"Rule 5 of the revised Advertising Code of Ethics deals with offensiveness. It refers to generally prevailing community standards and the likelihood of serious or widespread offence, taking into account context, medium, audience and product.

This advertisement has now had widespread exposure and as far as we are aware there has been only one complaint, so it appears self-evident that there is no widespread offence, and that the advertisement is in line with the generally prevailing community standards in New Zealand.

Whether the advertisement is causing offence to Moslems as a group in this country, serious enough to warrant its withdrawal, is more difficult to determine.

The letter of complaint starts off with the statement "As a Moslem mother of three boys....I find that most of the advertisements which are shown on television daily are very disgusting."

Her complaint about this advertisement is made "on religious ground, especially the dome of the mosque, the recitation of Holy words."

Even after careful frame-by-frame viewing, and listening on quality equipment, we are unable to make out the dome of a mosque or any words amongst the background music. We do not have particular knowledge of the Moslem religion, but we believe that if the complainant finds most advertisements offensive because of the way women are depicted or dressed, she is likely to find such advertisements even more offensive if they appear to be set in an Islamic country. We also believe that if Moslem religious leaders in New Zealand found the advertisement seriously offensive then they would have made their views known by now.

We note that the advertisement is titled LUX BODY WASH MOROCCO, and it may be the case that in some Islamic countries religious customs are less strictly observed than the complaint would suggest.

We do not doubt that the complainant feels offended by what she has seen, but in the present circumstances it is our view that there is insufficient evidence of serious or widespread offence to support her request for the withdrawal of the advertisement."

depiction of religious and cultural images in advertising. There are many advertisements depicting Christian, cultural and religious images which do not cause complaint (for example the Bell South advertisement depicting an Italian village and church). Various images relating to most of the major religions would be familiar to the great majority of viewers. Advertisers employ the use of these images to set a scene or create an atmosphere. The advertisement subject to complaint has employed the images to create a setting which hopefully will enhance the attractiveness of their product.

4. The Complainant refers to the boy portrayed in the advertisement and states that "He should be in school instead of running around trying to capture her beauty." The inclusion of the boy in the advertisement highlights the enchanting beauty of the scene and the subject portrayed. It is not offensive that the boy appears to be captivated by her beauty. Natural beauty is attractive to people of all ages. The boy's appreciation of her beauty is innocent. Whether he would be better employed at school is a moot point.

5. The Advertising Code of Ethics was recently revised. The old rule 4 was separated into two parts and clarified. The old rule 4 stated:

"Advertisements shall not contain statements or visual presentations which clearly offend against prevailing standards of decency or cause undue offence to the community or to a significant section of the community".

The new rule 5 reads:

"Advertisements shall not contain anything which in the light of generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services)".

6. There are two points to note. There is no longer reference to offence being caused to "a significant section of the community". The reference is now to "generally prevailing community standards". The result of this change to the rule is that the Board no longer needs to assess the impact of an advertisement on particular community groups when applying this rule. The Board now considers whether in the light of the "generally prevailing community standards" serious or widespread offence is likely. Generally prevailing community standards are not the same as those of the Complainant. That is not to say that the Complainant's standards are strict or that general standards are slack. They are different.

The second point in relation to the new rule is that the threshold of offensiveness required before a breach will occur has been changed from "undue offence" to "serious or widespread offence". Accordingly, the Board should require evidence that serious or widespread offence has occurred before a breach of the rule would occur. The evidence before the Board tends to indicate that the offence is not widespread and the particular offence caused to the Complainant is the result of her particularly sensitivity rather than as a result of any offensiveness in the advertisement as offensiveness is considered among the general community. The evidence before the

Deliberation

The Board was of the view that the issue to be determined was whether the advertisement contained anything which was likely to cause serious or widespread offence.

The Board discussed the portrayal of the woman in the advertisement and was of the view that, in light of generally prevailing community standards in New Zealand, the partial nudity portrayed was not likely to cause serious or widespread offence. The portrayal of the woman's body was not gratuitous and was related to the product being advertised.

The Board then discussed the depiction of Islamic religious and cultural symbols in the advertisement. The Board confirmed that the portrayal of religious and cultural images will not, of themselves, cause serious or widespread offence. The Board noted that the religious and cultural symbols used in the advertisement were designed to create a certain atmosphere. The Board was of the view that this use was not insulting to the Islamic religion nor was it likely to cause serious or widespread offence. It also noted that a mosque did not appear in the advertisement.

The Board was of the view that the advertisement did not breach Rule 5 of the Code of Ethics. Accordingly the Board ruled not to uphold the complaint.

Decision: Complaint Not Upheld