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| <b>COMPLAINT NUMBER</b> | 17/071          |
| <b>COMPLAINANT</b>      | M Wilkinson     |
| <b>ADVERTISER</b>       | MTV             |
| <b>ADVERTISEMENT</b>    | MTV, Television |
| <b>DATE OF MEETING</b>  | 28 March 2017   |
| <b>OUTCOME</b>          | Not Upheld      |

## **SUMMARY**

The MTV Staying Alive Foundation's animated advertisement shows Dick the Dog and his owner out for a walk. The dog sees lips on a car's exhaust pipe and the camera moves to show the owner's blushing face. There is implied sex, off-screen, and the dog is kept safe by wearing a condom.

The Complainant said the advertisement was 'sick', could encourage children to be cruel to animals, and was inappropriate for screening at any time.

The Advertiser said the advertisement dealt with serious social issues of safe sex and HIV-prevention in a humorous way. Sexual activity was implied, but not shown and the advertisement did not contain anything that breached community standards or could cause serious offence. They did not believe that the presence of a condom on the dog's head would encourage cruel or inappropriate behaviour.

The Advertiser said that in keeping with the standards of advocacy advertising, the advertisement presented opinion, not factual information, and the identity and logos of the MTV Staying Alive Foundation were clear. The advertisement screened was 'M' rated and screened during a block of programmes aimed at a mature audience.

The Complaints Board ruled the complaint was Not Upheld.

### **[No further action required]**

Please note this headnote does not form part of the Decision.

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## **COMPLAINTS BOARD DECISION**

The Chair directed the Complaints Board to consider the MTV Staying Alive Foundation advertisement with reference to Basic Principle 4 and Rules 4, 5 and 11 of the Code of Ethics. This required the Complaints Board to consider whether the advertisement was prepared with a due sense of social responsibility to consumers and society; whether it contained 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

produce (including services); and whether opinion was clearly distinguishable from factual information and whether the identity of the advertiser was clear.

### **The Complaints Board ruled the complaint was Not Upheld.**

#### **The Complaint**

The Complaints Board noted the concerns of the Complainant that the advertisement was 'sick', could encourage children to put a bag over a dog's head, and was not appropriate to be screened 'in any time zone but definitely not middle of the day'.

#### **The Advertiser's Response**

The Advertiser said the advertisement tackled an important social issue – safe sex – in a responsible way. They believe safe sex and HIV-prevention among young people are relevant and important issues and do not go against or offend prevailing community standards. The content does not show explicit sexual activity - it is implied and dealt with in a humorous fashion.

The Advertiser did not believe the advertisement would encourage children to 'put a bag over a dog's head' because the condom on the dog's head does not cover his face, eyes, ears or mouth and so could not be seen to encourage behaviour that could offend community standards.

The Advertiser said the advertisement is clearly branded with the MTV Staying Alive Foundation identity and logos. While the advertisement expresses an idea that safe sex is important, it does not present factual information.

#### **Precedents**

To assist in coming to its decision the Complaints Board reviewed two precedent decisions: Complaint 14/621 which was 'Not Upheld' and Complaint 09/650, which the Chairman ruled 'No Grounds to Proceed'.

The first precedent decision concerned a billboard advertisement for the New Zealand AIDS Foundation which featured the image of a naked man lying on a motorbike with a helmet covering his genitalia.

The Complaints Board noted the campaign was targeted at gay and bisexual men and was promoting an important health message. While the image was provocative, the Complaints Board said it was not exploitative, salacious or degrading.

The second precedent decision also concerned an advertisement for the New Zealand AIDS Foundation. This advertisement contained images of condom covered forefingers dancing in unison to a bouncy soundtrack with lyrics which said: "You want me to be wanting you, to be wanting me. I want to leave but I want to take your love with me..." A bare finger is shown and rejected by the others until it reappears wearing a condom.

The Chairman said the important health message conveyed in the advertisement was a matter of public interest, and robust expression of such was acceptable under Rule 11.

The Chairman also noted that the screening time, after 8.30pm on TV2, was generally rated as Adult Only (AO) viewing time, and the programmes and advertisements shown were rated accordingly.

### **The Complaints Board Discussion**

Having viewed the MTV advertisement and considered all the information provided, the Complaints Board considered whether the advertisement had breached Basic Principle 4 or Rules 4, 5 and 11 of the Code of Ethics.

The Complaints Board accepted that this was an advocacy advertisement promoting safe sex and that the identity of the advertiser was clear. They agreed that the advocacy nature of the advertisement allowed a more creative approach.

The Complaints Board said the safe sex message was important. They felt that treating a challenging topic in a light-hearted way could help engage a youth audience that is sometimes challenging to reach.

The Complaints Board noted that a sexual act was inferred but not shown and that this was part of the safe sex message and did not offend against prevailing community standards.

The Complaints Board said that the advertisement in no way encouraged children to put plastic bags over dogs' heads.

With regard to the screening time of the advertisement, the Complaints Board agreed that the issue of timing was not relevant for pay television. MTV is not a children's channel and the Board noted the statement from Broadcaster SKY TV that the advertisement was broadcast in a programming block classified 'M', which is "Suitable for Mature Audiences 16 years and over".

The Complaints Board ruled the advertisement was not in breach of Basic Principle 4 or Rules 4, 5 and 11 of the Code of Ethics.

The Complaints Board ruled the Complaint was Not Upheld.

**Decision: Complaint Not Upheld**

### **DESCRIPTION OF ADVERTISEMENT**

The MTV Staying Alive Foundation's animated advertisement shows Dick the Dog and his owner, who struggles to contain his pet's love of holes.

Owner and dog are out walking and the dog is drawn to a 'sexy' car exhaust pipe. There is implied sex, off-screen, the owner blushes and the dog is kept safe by wearing a condom.

### **COMPLAINT FROM M WILKINSON**

Condom advertisement with a dog wearing a condom over its head. The dog has sex with a car exhaust off camera but clearly demonstrated.

It is sick.

It could encourage kids to put a bag over a dog's head.

Not appropriate in any time zone but definitely not middle of the day.

## CODE OF ETHICS

**Basic Principle 4:** All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

**Rule 4: Decency** - Advertisements should not contain anything which clearly offends against generally prevailing community standards taking into account the context, medium, audience and product (including services).

**Rule 5: Offensiveness** - Advertisements should 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).

**Rule 11: Advocacy Advertising** - Expression of opinion in advocacy advertising is an essential and desirable part of the functioning of a democratic society. Therefore such opinions may be robust. However, opinion should be clearly distinguishable from factual information. The identity of an advertiser in matters of public interest or political issue should be clear.

## RESPONSE FROM ADVERTISER: MTV

We refer to your letter dated 15 March 2017 with complaint reference number **171071** (the **Complaint**) in regards to a content piece promoting the MTV Staying Alive Foundation's Safe Sex Campaign (the **Content**) that was broadcast on MTV Music (the **Channel**), a channel operated by VIMN Australia Pty Limited (**VIMN**) for the period 14 February and 14 March 2017 and specifically on 26<sup>th</sup> February 2017, the date the Complaint refers to.

VIMN understands the complainant feels the Content is "not appropriate" and "sick". VIMN responds to Complaint as follows.

### Description of the Content

The Content features 'Dick the Dog' and his owner, who struggles to contain his pet's sexual urges. The Content is aimed at a post-AIDS generation of teenagers, among whom HIV infections rates are not decreasing and the Content formed part of a campaign by MTV's Staying Alive Foundation aiming to show that condoms are not and should not be a barrier to safe sex. For further context, The MTV Staying Alive Foundation is an international content-producing and grant-giving organisation dedicated to stopping the spread of HIV among young people. The Foundation creates and distributes challenging and entertaining HIV-prevention content across MTV channels. The MTV Staying Alive Foundation is registered as a UK charity and as a 501c3 charitable organisation in the US.

### Response to the Basic Principles and Rules of the Advertising Standard Authority Codes (the **ASA Codes**)

**BASIC PRINCIPLE 4:** *All advertisements should be prepared with a due sense of social responsibility to consumers and to society.*

VIMN believes that the Content has been prepared in line with Basic Principle 4. The purpose of the Content is to tackle an important social issue, safe sex, in an approachable and light-hearted manner. The Content illustrates the social issue in a responsible and delicate way; the content is animated and no sexual activity is shown on-screen, only implied. The Content is somewhat comical, cutting edge and irreverent with the aim of tackling the important social issue of safe sex and HIV-prevention from a new and unique

perspective to bring more attention to it. VIMN therefore believes that the Content has been prepared with a due sense of social responsibility.

**Rule 4: Decency** - *Advertisements should not contain anything which clearly offends against generally prevailing community standards taking into account the context, medium, audience and product (including services); AND*

**Rule 5: Offensiveness** - *Advertisements should 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).*

VIMN does not believe the Content contravenes Rule 4: Decency or Rule 5: Offensiveness. The context of the Content, being the promotion of safe sex by a foundation that supports sex education and HIV-prevention amongst youth, is in essence a context and concept that does not go against or offend prevailing community standards and consequently does not cause serious widespread offence. As mentioned above, the Content does not show explicit sexual activity and any sexual activity is solely implied in a comical and cheeky manner with an overarching theme of promoting safe sex. The Content therefore does not contain anything that is against community standards or that could cause serious or widespread offence. Further, and specific to the complainant's comments, VIMN does not believe the Content would encourage children to 'put a bag over a dog's head' — the animated condom on the dog's head does not cover his face, eyes, ears or mouth and is therefore not encouraging cruel or inappropriate behaviour that could be seen to offend community standards.

**Rule 11: Advocacy Advertising** - *Expression of opinion in advocacy advertising is an essential and desirable part of the functioning of a democratic society. Therefore such opinions may be robust. However, opinion should be clearly distinguishable from factual information. The identity of an advertiser in matters of public interest or political issue should be clear.*

VIMN does not believe the Content contravenes this Rule 11: Advocacy. Whilst the Content is expressing an idea that safe sex is important, it does not present factual information and the Content clearly branded with the MTV Staying Alive Foundation identity and logos. The opinion that safe sex is important is a strong matter of public interest, and in the context of the function and aims of the MTV Staying Alive Foundation is an essential topic of discussion in a modern democratic society.

As such it is considered by VIMN that the Content has been treated with sensitivity to the relevant audience and has not contravened the above Principles and Rules of the ASA Code.

## **RESPONSE FROM BROADCASTER: SKY TV**

This advertisement is from MTV's Staying Alive Foundation. It wasn't scheduled by SKY (was left on the feed from MTV) so I don't have a key number for you sorry, but attached is the clip.

This was broadcast in a programming block classified M with a warning for Content.