

COMPLAINT NUMBER	18/375 Appeal 18/022
COMPLAINANT	S Lam
ADVERTISER	30 Seconds
ADVERTISEMENT	30 Seconds Television
DATE OF MEETING	12 March 2019
OUTCOME	Not Upheld

SUMMARY

The television advertisement for 30 Seconds Shower Cleaner showed “Professor Yaki Yakamoto” using the product on the shower, wearing a dressing gown, with his hair wrapped in a towel. He said: “Cleaning shower now easy peasy with new 30 Seconds Shower Cleaner. Soap scum. Grime. Bacteria. No wiping, no scrubbing. Just spray and walk away!”

The Chair of the Complaints Board ruled on 5 November 2018 the complaint made by S Lam about the television advertisement for 30 Seconds had No Grounds to Proceed.

The Complainant appealed the Decision and the Chairperson of the Appeal Board referred the matter to the Complaints Board for determination. As part of its deliberation, the Complaints Board had to assess whether there has been a shift in community standards since this advertisement was last considered by the Complaints Board, in 2017.

A majority of the Complaints Board said while there has been some shift in community standards, the advertisement did not reach the threshold to cause serious or widespread offence. This is because the intended humour was not related to the Professor character’s ethnicity but to his eccentric nature and performance style, in the way he promotes the 30 Seconds brand.

A minority disagreed. The minority said the advertisement was likely to cause serious offence because community standards have changed and the Professor Yakamoto character is designed to be a figure of fun, partly because of his ethnicity, and the way he speaks.

In accordance with the majority, the Complaints Board said the advertisement was not offensive and not in breach of Basic Principle 4 and Rule 5 of the Code of Ethics or Basic Principles 4 and 6 of the Code for People.

The Complaints Board ruled the complaint was Not Upheld.

[No further action required]

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

COMPLAINTS BOARD DECISION

The Chair of the Complaints Board ruled on 5 November 2018 the complaint made by S Lam about the television advertisement for 30 Seconds had No Grounds to Proceed.

The Complainant appealed the Decision. The appeal application was considered by the Chairperson of the Appeal Board. She noted the Applicant's concern the shift in community standards had not been adequately addressed by the Chair of the Complaints Board.

The Chairperson ruled the appeal was Accepted under Ground (e) - it is in the interests of natural justice that the matter be heard. The matter was referred to the Complaints Board for determination.

The Chair noted the Complainant lodged the complaint alleging a breach under Rule 1 (c) of the new Advertising Standards Code, which first came into effect on 1 November 2018. As the complaint was lodged on 14 September 2018, the Chair directed the Complaints Board to consider the complaint with reference to the Codes in effect at the time it was broadcast, Basic Principle 4 and Rule 5 of the Code of Ethics and Basic Principles 4 and 6 of the Code for People.

The Complaints Board was required by Basic Principle 4 to consider whether or not the advertisement had been prepared with a due sense of social responsibility.

Rule 5 - Offensiveness required the Complaints Board to consider whether or not the advertisement contained anything which in light of generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product.

Basic Principle 4 of the Code for People in Advertising says that while stereotypes may be used to simplify the process of communication in relation to both the product offered and the intended consumer, advertisements should not use stereotypes in the portrayal of the role, character and behaviour of groups of people in society which, taking into account generally prevailing community standards, is reasonably likely to cause serious or widespread offence, hostility, contempt, abuse or ridicule.

Basic Principle 6 of the Code for People in Advertising acknowledges that humour and satire are natural and accepted features of the relationship between individuals and groups within the community and humorous and satirical treatment of people and groups of people is acceptable, provided that, taking into account generally prevailing community standards, the portrayal is not likely to cause serious or widespread offence, hostility, contempt, abuse or ridicule.

The Chair reminded the Complaints Board that its role is to reflect community standards, not to set them.

The Complaints Board ruled the complaint was Not Upheld.

The Complaint

The Complainant said this advertisement was offensive because it is trying to be funny at the expense of the presenter's "stereotyped Asianness". The product being advertised has nothing to do with Asia or Asian people.

The Advertiser's response

The Advertiser said while the advertisement is disliked by a small minority this is not "widespread offence". The advertisement is humorous and not intended to cause any offence. The Advertiser disputes the claim that there has been a substantial shift in community standards.

Precedents

In considering the issues raised by the Complainant, the Complaints Board referred to three precedent decisions, 07/471 and 17/266 and 16/435.

Complaint 07/471, which was Not Upheld, was about an advertisement for another 30 Seconds product. It also featured the character Professor Yakamoto, who said "30 Second Spray and Walk Away is a simple solution for lichen, algae, mould and moss... Look lichen die, I walk away" The Complaints Board noted the explanations received from the Advertiser that the speech and mannerisms were entirely those of the actor Ming-Jen Huang, who played the character Professor Yakamoto and the Board was unanimous in its view that the portrayal could not be said to be reasonably likely to cause serious or widespread offence, contempt or ridicule, in the light of generally prevailing community standards.

Complaint 17/266 which was also Not Upheld, was about exactly the same advertisement as Complaint 18/375 Appeal 18/022. A majority of the Complaints Board said the advertisement did not reach the threshold to cause serious or widespread offence and the intended humour was not related to the Professor's ethnicity but to his eccentric nature and association and recognition with the 30 Seconds brand.

A minority said the ethnicity of the character and his accent was a significant factor in the intended humour of the advertisement. The minority said there has been a shift in tolerance for such representations and noted the significant growing Asian community in New Zealand. The minority said the advertisement was likely to cause offense and had not been prepared with a due sense of social responsibility.

Complaint 16/435, which was Settled, was about a television advertisement for 2 Cheap Cars. It depicted a New Zealand European man, the customer, talking to a Japanese car salesman at a car yard. The customer opened the conversation saying "Hey, reckon 2 Cheap Cars do the best Japanese imports do you?" The salesman responds to this, and subsequent comments, with the phrase "Ah so", while giving a bow. There were twenty-four complaints about this advertisement. The advertiser removed the advertisement, and the complaint was settled.

Complaints Board Discussion

Consumer Takeout

The Complaints Board discussed the consumer takeout of the 30 Seconds Shower Cleaner advertisement and agreed "Professor Yakamoto" is a successful brand ambassador for 30 Seconds cleaning products, and comparable to brand ambassadors for other products or companies. Professor Yakamoto has appeared on New Zealand television for over ten years, repeating his catch-phrase 'Spray and Walk Away' and audiences are very familiar with him.

The Complaints Board noted that Professor Yakamoto has an unusual way of speaking, which, although slightly exaggerated, is based on his natural voice. The Complaints Board said because there are few Asian people on New Zealand television the Professor Yakamoto character stands out.

Does the advertisement contain anything which is likely to cause serious or widespread offence?

A majority of the Complaints Board said while there has been some shift in community standards, the advertisement did not reach the threshold to cause serious or widespread offence. This is because the intended humour was not related to the Professor's ethnicity but to his eccentric nature and performance style, in the way he promotes the 30 Seconds brand.

A majority of the Complaints Board said the overall presentation of the advertisement, including the elevator music, camera angles, sticking-up hair, and the way the Professor speaks all contribute to create the overall effect of his character.

A majority of the Complaints Board said there is nothing derogatory or offensive about the way Professor Yakamoto is portrayed, based on his ethnicity, and he is not the "butt of the joke".

The majority referred to the decision for Complaint 16/435, which was Settled. The majority said this advertisement, in contrast to the one before it, was offensive because the use of the word "Ah so" was making fun of the Japanese language.

A minority disagreed and said the 30 Seconds Sower Cleaner advertisement was likely to cause serious offence because community standards have changed. The Professor Yakamoto character is designed to be a figure of fun, partly because of his ethnicity, and the way he speaks. The humour in the advertisement is at the Professor's expense.

The minority said there has been a shift in tolerance for such representations. They referred to the Broadcasting Standards Authority report "Language that May Offend in Broadcasting", which was published in June 2018, which now includes three additional racial/cultural insults, which weren't in previous reports. They also noted the Human Rights Commission's anti-racism campaign by Taika Waititi which has resonated with many New Zealanders, particularly the younger generation.

Does the advertisement use stereotypes which are reasonably likely to cause serious or widespread offence, hostility, contempt, abuse or ridicule?

The Complaints Board agreed the advertisement did not use stereotypes which are reasonably likely to cause serious or widespread offence, hostility, contempt, abuse or ridicule. This is because while the Professor Yakamoto character happens to be Asian, he is not a typical Asian "stereotype" as such.

The Complaints Board noted that an ethnic stereotype is a system of beliefs about typical characteristics of the members of a particular ethnic group. For example, some ethnic groups are described as "tight-fisted", "drunken" or "efficient".

Is the advertisement socially responsible?

The majority of the Complaints board said the television advertisement was socially responsible, taking into account context, medium, audience and product.

The minority said that the advertisement was not socially responsible as community standards have shifted away from depicting people as figures of fun, based on their ethnicity.

In accordance with the majority the advertisement was not in breach of Basic Principle 4 and Rule 5 of the Code of Ethics and Basic Principles 4 and 6 of the Code for People.

The Complaints Board ruled the complaint was Not Upheld.

DESCRIPTION OF ADVERTISEMENT

The 15 second television advertisement for 30 Seconds Shower Cleaner showed “Professor Yaki Yakamoto” using the product on the shower in a dressing gown with his hair wrapped in a towel. He said, in part: “Cleaning shower now easy peasy with new 30 Seconds Shower Cleaner. Soap scum. Grime. Bacteria. No wiping, no scrubbing. Just spray and walk away.”

COMPLAINT FROM S LAM

I find 30 Seconds’ “Spray and Walk Away” advertisement(s) to be offensive and in breach of Rule 1 (c) of the Advertising Standards code, Decency and Offensiveness, in particular the part that states:

“...advertisements must not feature stereotypical roles or characteristics which, through their content and context, are likely to be harmful or offensive to people, particularly children and young people. This includes, but is not limited to, advertisements that: Include irresponsible or offensive depictions of differences including race, body shapes and sizes.”

The intended joke of the advertisement is an older Asian man with a strong accent and exaggerated speech. It is clear that the advertisement is trying to be funny at the expense of his stereotyped Asianness. This is further supported by the fact that the product, a household cleaning product, has nothing to do with Asia or Asian people. The Asian character is a cheap, offensive punchline and unnecessary in advertising the product.

As an Asian-New Zealander myself, I feel incredibly uncomfortable every time this long-running advertisement comes on, and am surprised and embarrassed that this kind of ad is still broadcast in 2018. I hope this complaint will help bring about change.

Ad details: TV2 Friends 2018-09-14 4.30-5.00pm

CODES OF PRACTICE

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

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).

CODE FOR PEOPLE

Basic Principle 4: Stereotypes may be used to simplify the process of communication in relation to both the product offered and the intended consumer. However, advertisements should not use stereotypes in the portrayal of the role, character and behaviour of groups of people in society which, taking into account generally prevailing community standards, is reasonably likely to cause serious or widespread offence, hostility, contempt, abuse or ridicule.

Basic Principle 6: Humour and satire are natural and accepted features of the relationship between individuals and groups within the community. Humorous and satirical treatment of people and groups of people is acceptable, provided that, taking

into account generally prevailing community standards, the portrayal is not likely to cause serious or widespread offence, hostility, contempt, abuse or ridicule.

RESPONSE FROM ADVERTISER, 30 SECONDS

We have received the decision in relation to Appeal Number 18/022 from the Appeal Board and we acknowledge that it has been accepted under Ground (e) “in the interests of natural justice” and that the matter was referred to the Complaints Board for determination.

We also thank the ASA Board Chair for the support of our request for an extension to the deadline for our response on the grounds that we are a new Executive and we require some time to investigate this complaint and appeal more thoroughly.

30 Seconds would like to acknowledge the Complainant and advise that at no time did we intend to cause offence to them or anyone else in the wider community. 30 Seconds is a responsible, New Zealand manufacturer and marketer that takes these matters very seriously and appreciates the opportunity to respond to the complaint and the complainant accordingly.

30 Seconds strongly disputes the claim that the advertisement in question is in breach of the Advertising Code of Ethics and certainly do not accept any claim that the advertisement is likely to cause serious or widespread offence. The character is a Professor who demonstrates using the product on the shower in a dressing gown with his hair wrapped in a towel. He said, in part: “Cleaning shower now easy peasy with new 30 Seconds Shower Cleaner. Soap scum. Grime. Bacteria. No wiping, no scrubbing. Just spray and walk away.” The advertisement is not stereotypical or characteristic of any person or group of people neither is it irresponsible or offensively depicting differences. The character is simply delivering a light-hearted message about the ease of use of the Shower Cleaner product. 30 Seconds acknowledge that the character may be polarising; viewers either love or hate him, however this certainly does not conclude that the advertisement is offensive or racist.

To follow is a summary of historical responses from 30 Seconds that are relevant to this complaint:

- The character is a “charming, well liked, kiwi icon. We take considerable care in maintaining our reputation as a well-known, well liked brand and our brand ambassador is an integral part of this” – **refer Complaint 17/266 response from 30 Seconds Ltd**
- Feedback over the years, consistently shows that the Professor is warmly received. We bring your attention to TVNZ’s recent Fair Go; People’s Choice, Advertising Awards feature; (<http://30seconds.co.nz/video-gallery/30-seconds-spray-walk-away-fair-go-ad-awards/>), which echoes the view we have, that the 30 Seconds advertisements are much loved by New Zealander’s in general – **refer Complaint 16/153 response from 30 Seconds Ltd**
- Ming is authentic in his delivery, he is not acting or impersonating any person or race, he is being himself, he is proud of his performance and is not offended by the advertisements, he has previously tabled a written response to earlier complaints – **refer Complaint 07/471 response from 30 Seconds Ltd**
- Our advertisement is certainly not intended to be offensive nor are they designed to encourage racism, the advert is comedic in its intent. The intended humour was not

related to the “Professor’s” ethnicity but to his eccentric nature and the association and recognition with the 30 Seconds brand and was unlikely to cause offense, contempt, abuse or ridicule – **refer Complaint 17/266 response from Complaints Board**

- The advertisement had been prepared with a due sense of social responsibility and the portrayal of people shown could not be said to be reasonably likely to cause serious or widespread offense, contempt or ridicule in the light of generally prevailing community standards – **refer Complaint 16/153 response from the Complaints Board**
- The advertisement’s use of the Professor character to promote the benefits of the product was light-hearted and humorous. The Complaints Board disagreed with Complainant’s interpretation that the portrayal of the Professor was racist and derogatory. It interpreted the ‘Professor’ as an extremely likable character who was well known and associated with the 30 Seconds brand. The Complaints Board said the advertisement was not degrading to people of Asian ethnicity and did not portray Asian people in a negative way. Therefore, the Complaints Board said the portrayal of the Japanese Professor was unlikely to cause serious or widespread offence to people of Asian ethnicity – **refer Complaint 16/153 response from the Complaints Board**
- The real humour of the advertisement is in the character himself. He is a character, with idiosyncrasies and mannerisms that many viewers have warmed to. Others may not have - you love him or you hate him, but that feeling does not translate to an attitude either for or against all Asians – **refer Complaint 07/471 response from TVCAB**

Further to these historical statements in relation to complaints about our advertisements we would like to make these additional comments

- In November 2018 30 Seconds undertook extensive market research across New Zealand and Australia and it was evident that our TVC’s have created significant brand salience and support for the campaign. The advertising Campaign has been running for over 10 years and continues to deliver results for the brand, the business and the retailers. This would not be possible if the advertisements were, as the Complainant suggests, causing serious or widespread offence
- 30 Seconds acknowledges that a small number of viewers have been offended by the advertisement, however this was obviously never the intent of the advertisement as they are widely regarded as being humorous and comical. 30 Seconds also believes that the complaints from a very small minority does not, in any way, justify the removal of a 10 year advertising campaign or end of a career and a livelihood for Ming our brand ambassador. These complaints are arguably a personal attack on Ming, which in itself is potentially defamatory.
- 30 Seconds dispute the claim that there has been a substantial shift in community standards, and the complainant’s proof of this shift as indicated by 5 Twitter feeds is certainly not representative of the wider community.
- In response to the claim provided by the Complainant that 5 Twitter feeds is evidence that there is a substantial shift in community standards, we would like to counter this with evidence publicly available on the 30 Seconds Facebook page. The page has

9022 likes and 8783 followers. Below are some links to posts on the 30 Seconds Facebook page that include images of the 30 Seconds Professor and to the TVC in question. There are a total of 1088 comments on just these three examples from the 30 Seconds Facebook page and the overwhelming majority of these comments are positive ones.

<https://www.facebook.com/30secondsNZ/photos/a.503946959637798/1770756892956792/?type=3&theater>

<https://www.facebook.com/30secondsNZ/photos/a.503946959637798/1755749104457571/?type=3&theater>

<https://www.facebook.com/30secondsNZ/videos/1560857187280098/>

- The advertisement in question was scheduled 14 months ago to be running this week; however as a business we have voluntarily replaced it with another 30 Seconds advertisement that is not subject to this specific complaint. We trust that the board and the complainant see this as an illustration of how seriously we take the complaint and the process.
- 30 Seconds has no further television commitments to the advertisement in question at this stage.

30 Seconds is a New Zealand manufacturer and marketer of indoor and outdoor cleaning products that was established over 20 years ago. We value our brand, our stakeholders and our customers and we would never act in a manner that would bring our company or our brand in to disrepute. Our advertising campaign has been a big part of our business for many years and it has been influential in our success to date. We understand that a small number of people may not like our advertisements however there are significantly more that show their support for them and have a strong recall of them. A dislike of the advertisements by a small minority definitely does not determine “widespread offense”.

Should the ASA Complaints Board have any further questions or require any additional information; please feel free to contact me directly.

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 days of receipt of this decision.