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| COMPLAINT NUMBER | 19/432 |
| COMPLAINANT | R. McMahon |
| ADVERTISER | Foodstuffs NZ |
| ADVERTISEMENT | PAKn'SAVE Billboard |
| DATE OF MEETING | 10 December 2019 |
| OUTCOME | Upheld |
| | Advertisement not to be used again |

Description of Advertisement

The billboard advertisement for PAKn'SAVE, which was located on a street corner in Auckland, said "Ruck Me! That's low prices... Sideline Supporter Deals."

Summary of the Complaint

The Complainant was concerned about the use of 'smutty innuendo in public advertising'.

Issues Raised:

- Social Responsibility
- Decency and Offensiveness

Summary of the Advertiser's Response

The Advertiser said the use of the word "ruck" was not offensive or indecent. It is a rugby reference and the advertisement relied on the use of humour. The advertisement ran during the Rugby World Cup season and is no longer running.

Summary of the Complaints Board Decision

The Complaints Board upheld a complaint about a billboard advertisement for PAKn'SAVE which said "Ruck Me! That's low prices". The Board said the use of the phrase "Ruck me" in the advertisement was offensive. This is because the word "ruck" acted as a place holder or euphemism for the word "Fuck", which is generally regarded as offensive.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

ADVERTISING STANDARDS CODE

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(c): Decency and Offensiveness: Advertisements must not contain anything that is indecent, or exploitative or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt abuse or ridicule.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 17/110 which was Not Upheld and 19/045, which was Upheld.

The full versions of these decisions can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 17/110 concerned a radio advertisement for Forktruck Specialists Ltd services used a play on the word “fork” as in “forklift” to suggest the swear word “fuck”, and the advertisement ended with a gruff “fork yeah.” The Complaints Board said the humour was intended and inoffensive words had replaced swear words. Offensive words had not been overtly used. The complaint being considered was particularly similar to Complaint 15/153 which related to a Vent Mechanical advertisement in which the word “truck” was used as if it could have been “fuck.”

Decision 19/045 concerned a large outdoor poster for Remedy Kombucha drink showed a photo of a hand holding a bottle of Remedy Kombucha. The text said: “Tell sugar to get Fruct”. The Complaints Board agreed the use of the word “Fruct”, as contained in the phrase “Tell sugar to get frucked”, was offensive. This is because the word “Fruct” acts as a place holder or euphemism for the word “Fuck”, which is generally regarded as offensive. The Complaints Board said the poster advertisement was located in public places, such as shopping malls, and this means there was unrestricted access for anyone in the vicinity, including children.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the consumer takeout of the advertisement was a play on words referring to the Rugby World Cup and advertising special “Sideline supporter deals”. The word “Ruck” was used in place of “fuck”, which most teenagers and adults would understand.

Audience

The Complaints Board noted the advertisement was a billboard so had an unrestricted audience for anyone passing by including children and young people.

Was the Advertisement Offensive?

The Complaints Board said the use of the phrase “Ruck me” in the advertisement was offensive. This is because the word “Ruck” acted as a place holder or euphemism for the word “Fuck”, which is generally regarded as offensive.

The Complaints Board referred to the Broadcasting Standards Authority report “Language that May Offend in Broadcasting”, published in June 2018. The term “Get fucked” is ranked at number eight on the list of the 31 most unacceptable words or phrases in broadcasting. The word “fuck” is number thirteen on the ranking. The term “Fuck me” is not included.

The Complaints Board said while the word “ruck” is associated with the game of rugby the term “Ruck me” is not.

Was it Socially Responsible?

The Complaints Board said the advertisement was not socially responsible, taking into account context, medium, audience and product and was in breach of Principle 1 and Rule 1(c) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaint was **Upheld**.

Advertisement not to be used again.

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.

APPENDICES

1. Complaint
2. Response from Advertiser

Appendix 1

COMPLAINT FROM R. MCMAHON

Pak'NSave using smut & cost-free references to the Rugby World Cup to sell groceries. Unremarkable, perhaps, in some private contexts, but one more step down the path to use of smutty innuendo in public advertising

No "average Kiwi" would have any doubt about what the Rugby player is saying. The location is "interesting" - being 70 metres line of sight from the fence of the local Islamic Centre / Mosque. This may or may not have commended the site to them, but it certainly didn't stop them.

A fine extension of the "they are us" message? "We can now get away with using sexual smut in advertsing - get over it"?

Location: Corner of Rosebank Road & Blockhouse Bay Road, Avondale, Auckland. (& presumably elsewhere). Just above and across road from Avondale Islamic centre.

Appendix 2

RESPONSE FROM ADVERTISER, FOODSTUFFS NZ

1. I refer to your letter to Foodstuffs (N.Z.) Limited (Foodstuffs) dated 13 November 2019. We are responding on behalf of Foodstuffs.
2. Foodstuffs, to advertise its brand PAK'nSAVE, ran a "Sideline Supporter Deals" campaign as a new way to hero the consistent brand message, Low Prices at PAK'nSAVE. As part of this campaign a series of advertisements were created one of which was the "Ruck Me! That's Low Prices" advertisement (Advertisement).
3. The Advertisement is no longer running and the last time this Advertisement appeared was 31 October 2019. The other details requested by the ASA about the Advertisement are as follows:

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| A basic, neutral description of the advertisement | Supporting brand message for PAK'nSAVE's Sideline Supporters campaign. Hero message: Low Prices at PAK'nSAVE |
| Date advertisement began | 1st Oct 2019 |

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| Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website) | Static & Digital Billboards Please see attached list of locations |
| Is the advertisement still accessible – where and until when? | No. Last appeared 31 October 2019. |
| A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version. | Please see attached |
| Who is the product / brand target audience? | New Zealanders aged 18-54 |

4. The complainant asserts that the Advertisement is inappropriately using innuendo and expressed concern about the proximity of the Advertisement to the Avondale Islamic Centre.
5. As the Advertisement and other related PAK'nSAVE ads ran during the 2019 Rugby World Cup, Foodstuffs used a series of rugby related references during the campaign. Some examples include:
 - a. "All the action's in the second half"
 - b. "Bulk up for the big game!"
 - c. "That was meant to feed the scrum"; and
 - d. "Sideline Supporter Deals" (the name of the campaign itself).
6. The use of "Ruck" is another one of these examples. Foodstuffs do not consider this was offensive or indecent but, as with the use of the other rugby-related advertisements, simply intended to take advantage of the expected increased proportion of the country that were likely to be interested in rugby at the time and would therefore be more likely to take note of the rugby references, understand the humour and therefore encourage them to shop at PAK'nSAVE for the low prices.
7. We also note that this Advertisement used PAK'nSAVE's Stickman. Stickman is well-known and consumers are familiar with, and now expect, his quirky and 'tongue in cheek' nature to come through in PAK'nSAVE advertising. We consider the Advertisement would have been viewed from this perspective and as another one of Stickman's jokes.
8. Foodstuffs accepts that the Advertisement displayed throughout October was on the same road as the Avondale Islamic Centre, but Foodstuffs confirms that the only reason for choosing this location is because this is a popular billboard in a high traffic area that was chosen to target a large number of persons driving along Blockhouse Bay Road. It is also close to PAK'nSAVE Mt Albert so is intended to target potential PAK'nSAVE Mt Albert customers.

9. For the reasons outlined above we do not consider there has been a breach of Advertising Standards Code – Principle 1, Rule 1(c). In particular, we do not believe that Advertisement could be said to have caused “serious or widespread offence”.

Please let us know if you require any further information