

COMPLAINT NUMBER	21/022
ADVERTISER	Subway Systems Australia Pty Ltd
ADVERTISEMENT	Subway Television
DATE OF MEETING	9 March 2021
OUTCOME	Not Upheld No further action required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a television advertisement for Subway. The Board said the advertisement did not undermine the health and well-being of individuals or show violent behaviour.

Advertisement

The television advertisement for Subway, featuring the actor Julian Dennison, is a parody of the opening theme of the American Sitcom television programme, the Fresh Prince of Bel Air. In one scene some men described as “French Fools” who are “up to no good” and associated with greasy fast food appear. They are shown lifting Julian and throwing him into the skateboard bowl. He is then rescued by the “good guys” – representing fresh ingredients and Subway. The audio for the advertisement is a rap song to the tune of The Sweet Prince of Bel Air. The lyrics include “This is a story about how fast food got flipped ... I’ll tell you how to ditch the fries and eat fresh everywhere”.

Summary of the Complaint

The Complainant was concerned the advertisement normalised obesity in the young and showed mild violence.

Issues Raised:

- Social responsibility
- Violence and anti-social behaviour
- Health and well-being

Summary of the Advertiser’s Response

The Advertiser defended the advertisement and said it is a fantasised re-telling of Subway’s 55-year history. It is designed to encourage New Zealanders to choose fresher, healthier food and reject greasy, fast food alternatives. It does not promote violence.

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(f) Violence and anti-social behaviour: Advertisements must not, unless justifiable on educational or social grounds, contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property.

Rule 1(h) Health and well-being: Advertisements must not undermine the health and well-being of individuals.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 19/221 which was Upheld and 19/384, which was Not Upheld.

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

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

Decision 19/221 concerned a television advertisement for Wrigleys EXTRA peppermint chewing gum shows a school student with glasses being pushed up against the wall by another student and asked for his lunch money. The Complaints Board said the advertisement showed bullying behaviour and was not socially responsible. The Complaints Board ruled the advertisement was in breach of Principle 1 and Rule 1(f) of the Advertising Standards Code.

Decision 19/384 The Complaints Board did not uphold a complaint about a television advertisement for L&P featuring zombies exploring a post- apocalyptic cityscape. The Complaints Board said while this advertisement may be distasteful to some viewers, it did not reach the threshold to be considered likely to cause harm or serious or widespread offence. The Complaints Board agreed the advertisement did not contain anything that condones or is likely to show, violent or anti-social behaviour or damage to property, without justification. The zombie characters did not behave in an anti-social way and the setting was clearly fictitious and humorous.

Complaints Board Discussion

The Chair noted that the Complaints Board's role was to consider whether there had been a breach of the Advertising Standards Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised.

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was Subway is a fresher, healthier, fast food option. The advertisement uses character and metaphor to

represent the history of the “sandwich wars”, the competition between Subway and other fast food companies.

Audience

The advertisement is rated GXC (General Except Children’s Programmes) This means it may be broadcast at any time except during programmes which are intended specifically for children under the age of 13.

Does the advertisement contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property?

A majority of the Complaints Board said the advertisement did not contain anything that showed violent or anti-social behaviour. The majority said the advertisement is a parody of the theme song for the television programme *The Fresh Prince of Bel Air*, which featured Will Smith. The scene where the “bad guys” pick up Julian Dennison and carry him away is a reference to a similar scene in the opening scenes of the programme. The majority said in the context of a parody the brief scene in the background showing the struggle between the “goodies” and “baddies” did not reach the threshold to be considered violent or anti-social behaviour.

A minority disagreed. The minority said the scene where Julian Dennison is picked up and thrown into the skate park bowl did show violent behaviour. This went further than the scene from *The Fresh Prince of Bel Air*, where the Fresh Prince was spun around on the shoulders of some local playground bullies. The minority said the scene in the advertisement was gratuitous.

Does the advertisement undermine the health and well-being of individuals?

The Complaints Board unanimously agreed the advertisement did not undermine the health and well-being of individuals. The Board said the actor Julian Dennison had been selected for this role as a rapper promoting Subway because of his popularity and ability to grab the attention of viewers. The advertisement is clever in a humorous way and conveys a positive message about eating fresh and healthy food.

Is the advertisement socially responsible?

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

Outcome

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

No further action required.

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 calendar days of receipt of this decision.

APPENDICES

1. **Complaint**
 2. **Response from Advertiser**
 3. **Response from Media**
-

Appendix 1

Complaint

I consider the advertisement to be inappropriate as it normalises obesity in the young person and also does not show positive behaviour for our young people. One section of it displays mild violence as well.

Appendix 2

Response from Advertiser, Subway

Thank you for providing Subway with the opportunity to respond to complaint reference: SUB 165060. Subway stringently opposes any characterisation that its Eat Fresh advertisement normalises obesity and unhealthy eating or promotes violence.

The Subway Eat Fresh advertisement's overarching message is healthier choice. The Subway product is a fresh, healthier alternative to traditional fast food and the brand is universally known for the wide range of freshly-baked breads and locally-sourced fresh salad ingredients which are sliced in-restaurant daily. The Subway "make it your way" food model provides consumers with the ability to choose low-salt, low-sugar, high-protein or any other dietary preference. The Subway Eat Fresh advertisement shows that healthier choice is not only about food, but a healthy mindset — with confidence and an active lifestyle.

Subway Eat Fresh and compliance with Advertising Standards Code, rule 1(h)

The Eat Fresh advertisement does not condone excessive consumption of food, promote an unhealthy lifestyle, or negatively portray an active lifestyle.

This advertisement is designed to encourage New Zealanders to choose fresher, healthier food and reject greasy fast food alternatives. The advertisement also positively promotes physical activity, through the inclusion of break dancing, walking outdoors and skate boarding.

Subway does not see the need to engage in body shaming discussions and notes that nine of the ten characters in the advertisement represent what are universally-accepted healthy body types.

Subway also notes that this advertisement underrepresents body type diversity, when compared with New Zealand's obesity rate - one of the highest in the in the OECD, with one in three adults over 15 years of age is classified as obese (source: Ministry of Health).

Subway Eat Fresh and compliance with Advertising Standards Code, rule 1(f)

Subway New Zealand's Eat Fresh advertisement is a fantasised retelling of our brand's 55-year history and is not intended to be viewed as a realistic representation of society. This fantasy is reiterated in every scene, with fries falling from the sky, DJ decks made from pizza and a Subway Footlong shaped microphone. With these larger-than-life representations, Subway believes that it is unrealistic to believe the community could infer any representations of violence. Subway rejects any claims that the advertisement includes violent behaviour.

Appendix 3

Response from Commercial Approvals Bureau

This Subway commercial starring well-known New Zealand actor Julian Dennison has received international recognition. Rapping to a remixed version of the 1990's theme song from Fresh Prince of Bel-Air, he relates the story of how fast food got flipped and turned upside down in favour of fresh food. The song tells of being raised on fatty fast food until a couple of guys started selling fresh in his neighbourhood as modern dancers act out the story. 'Skip the grease, eat fresh food instead'.

While it is acknowledged Julian Dennison is not a slim young man, his popularity is being used here to grab the attention of viewers. It is a clever and humorous way to relay the positive message of eating fresh and healthy food. To suggest the commercial promotes violent or anti-social behaviour or normalises obesity is certainly rather far-fetched in our opinion.

The commercial is rated GXC so does not air in programming aimed at young children.

We see no reason to uphold this single complaint.