

ADVERTISING STANDARDS COMPLAINTS BOARD

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06/417

DECISION

Special Meeting 20 November 2006

Complaint 06/417

Advertisement: Hell Pizza

Complaint: Hell Pizza used a small cardboard wallet containing a single sealed condom to promote its Lust pizza. The outside of the wallet contained the Hell Pizza logo on one side and the phrase “Our pizza for meat lovers!” on the other side along with a contact phone number and website address for the company. Printed on the inside of the wallet were instructions on how to use the condom.

The Complaint:

“Where: Today 2 November, received in the mail box a packaged condom from Hells Pizza Co. Slogan “Our pizza for meat lovers”

Who: Hells Pizza

Product: pizza

Complaint -

I consider this promotion to be offensive and in bad taste and have told the company. I wish to make a formal complaint on the grounds this promotion is an inappropriate use of the mail system.

Any child can open the box take out these condoms and play with them. I object to people thinking they can put condoms in our letterbox as a way to promote their business. These are contraceptive devices, not playthings. The package also gave full instructions “how to use the condom” in case some young person wanted to ‘Experiment’!

It shows lack of taste and is irresponsible. I ask the Authority to take action against Hells Pizza to stop this type of advertising.”

Duplicate Complainants shared similar views and also expressed the following concerns:

- The use of a condom to promote a food product was inappropriate for general unsolicited distribution;
- The reference to “meat lovers” on the back of the cardboard wallet was offensive; and
- The promotion undermined family values.

Complainants also expressed concern that:

- The delivery of condoms via letterboxes could remove of the rights of parents to be responsible for the sex education of their children;
- The explicit explanation about condom use was unnecessary and unacceptable; and
- There could be health and safety issues relating to the condom being damaged by this type of delivery method.

The Chairman ruled that the following provisions were relevant:

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).

The Agency, Cinderella, also on behalf of the Advertiser, Hell Pizza, said:

“This response has been provided by Cinderella, on behalf of HELL.

HELL is New Zealand’s most successful pizza restaurant franchise network. In just a few short years the company has grown from one store in the Lower Hutt suburb of Wainuiomata to a network of over 60 stores with annual revenues in excess of \$60 million.

The expansion of HELL from a single store to a national franchise has been achieved by doing things differently, by delivering a quality product using the best possible ingredients and by being committed to deploying highly creative marketing executions that were deliberately designed to provoke a reaction from the public.

From the very beginning, the company’s marketing activities were unconventional and memorable, a necessity given the available marketing budget. Recent media reports have noted that the Pizza Hut chain (a company with a vastly larger marketing budget) experienced a decline sales on a same store basis over the past twelve months, while HELL posted positive results over the comparable period should be seen as testament to the effectiveness of its marketing and, of course the superior quality of its product.

In short, HELL has built a successful brand by utilizing a limited marketing budget in ways that sought to grab attention and secure significant additional media coverage that would never have been able to be sustained using conventional, paid-for, advertising techniques.

Obviously the aim of the company's marketing was to build brand awareness, communicate the company's brand values and, ultimately to sell more product. We are proud to be part of continuing the legacy that was established when the company was established.

HELL and Cinderella are united in the belief that successful marketing and a great brand is about more than just flogging product. There has always been a thread of social commentary running through the major campaigns. There was a conscious effort to leverage brand awareness through linkages with topical issues of the day.

Examples of this in the recent past include:

- The inspired placement of a single billboard in Wellington next to one displayed by Mothers Against Genetic Engineering, which in a single stroke ensured that both organisations' billboards, and their messages, received significant national coverage and raised awareness of genetic engineering. And it ensured that the risks posed by genetic engineering were publicized again, along with the slightly unnerving spectacle of a six breasted woman.
- The HELL politicians poll, which forced politicians to recognize how the public regarded them
- The 'Too Evil for HELL' campaign, lampooning George W. Bush.

There have been other campaigns. The ASA will be aware of some of those, and even upheld a recent complaint about a campaign aimed at promoting a kids size pizza, the 333. Suffice to say at this point that to say we were dismayed by that particular decision is an understatement. The decision calls into question our whole confidence in the integrity of the complaints process and how easy it appears to be for motivated and vocal minorities to impose their religious and moral views on the majority of New Zealanders who could be under the illusion we live in a tolerant and secular society. We do intend to appeal that decision.

However, to return to the immediate subject: complaints that have been received as a result of the recent Lust meatlovers pizza campaign, a key part of which involved the distribution of 170,000 condoms in sealed foil and cardboard wallets to letterboxes surrounding HELL stores, and our response to them. We have distributed a further 100,000 through health and community groups who have been very supportive.

We have been directed, in correspondence from the ASA, to address our responses with due regard to:

Basic Rule 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).

We can assure the Board that we most certainly did approach this campaign with 'a due sense of social responsibility to consumers and society.'

In fact, the LUST campaign marks a critical juncture in the development of the HELL brand going forward. We want to move the brand beyond being the ‘slightly irreverent, cheeky kid on the block’ who says what they want without fear of the consequences.

We knew that the LUST campaign would push the boundaries of marketing. If we didn’t try to do things differently or in new ways, we would all get very bored and have to go and find other jobs and we don’t want to do that.

A key objective of the campaign was to continue to build the HELL brand and promote the meat lovers pizza.

Equally important was the objective to link our promotion with a very serious public health message that has relevance to all New Zealanders (whether they like to admit or not).

To return to our child analogy briefly, dare we say it, it may be that the ‘cheeky kid’ is growing up and becoming aware that it has an opportunity to move beyond simply being a highly successful convenience food brand.

Our strategy with the LUST campaign was to start moving the HELL brand beyond creative and innovative campaigns based on topical current events. Our ultimate goal is that, over time and with commitment, HELL could become a champion for social and societal issues that perhaps are not all that ‘palatable’ for some sectors of society to confront. We believe that the fact that some issues are unpleasant should not require them to be hidden from general view.

We chose to promote the LUST pizza by sending out a sealed condom in a branded packet. LUST and sex are, in our experience often found not far apart. One generally follows the other. And enjoying great food either before or after is also not such a stretch.

So, if you’re going to act on your LUST and have sex then the prevailing wisdom is that you should use a condom to significantly reduce your chances of catching an STI or HIV/AIDS. We hope that provides the Board with some assistance in following our logic in how we came to use a condom to promote a pizza. Some complainants were of the view that it was wrong and even gratuitous to link food and sex. We were also amused that complainants appeared evenly split over whether the term ‘meatlovers’ was a derogatory reference to males or females. It was of course, a description of the pizza.

One of the really positive results of the campaign was to show that the spokesperson for the so-called 'Family First lobby group - a group incidentally that is strongly anti-gay and against gays enjoying marriage rights - did not hesitate in his interviews to repeat the entirely false claim that condoms are not effective in reducing STI rates (something that the Family Planning Association has raised as a serious concern and as a reason for high infection rates.

The fact is that New Zealand has the third highest teen pregnancy rate in the developed world. We have high, and increasing rates of STI’s like Chlamydia which can result in infertility among young New Zealanders.

We take some pride in the fact that there are probably now very few New Zealanders who are not aware of at least some of these statistics. And all because of a pizza. We even like to think that we might have done some good.

A key decision for the Board will be to determine whether a condom per se is offensive, having regard to generally prevailing community standards. There are certain groups who choose to believe that young people do not have sex. These people will construct a completely false reality in order to not have to confront very real issues.

Complaints have centred on the fact that condoms were distributed via letterbox and that, because children often gather the mail, they might be 'exposed' to the condom. These children, some as young as five we were told, being naturally inquisitive, opened the package to find the foil wrapped condom. Why is this regarded as shocking?

Because of the mandatory Health Department instructions that were printed in fine print on the inside of the cardboard. We believe that any child who did read the warning would not be unduly affected by it. The terms are not really sexually arousing and the suggestion made by one hysterical complainant that they could then go and act out the instructions on the next door child is just not plausible and probably not even physically possible. It borders on insane to believe that this is a credible risk. Subsequent events would seem to bear out the assumption that there has not been an explosion of sexual assault of children after being exposed to government health warnings.

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Some complainants suggested that a letterbox is not an appropriate delivery mechanism for a condom. Why not? What is so wrong with a condom? We would concede that a lunchbox would definitely be inappropriate. But let's not forget that condoms are also called French Letters, so perhaps it is not so outrageous after all.

Apparently some parents believe that they alone have the right to educate their child about sexual matters and that no-one should force the timing on them. The statistics suggest that many are not doing this soon enough. There are also many other groups involved in educating young people about all sorts of issues. Thankfully parents don't have a mortgage on the minds of children.

And if there are parents who believe that they can control their child's natural inquisitiveness until they 'believe they are ready' ignores the reality that most children and young adults avail themselves of this information far before the parent ever gets round to it.

The media have reported that this campaign is now the most complained about advertising campaign in New Zealand's history (complaints were even received from people who did not receive the promotion). We regard this as an achievement of genuine significance and are proud to be the new custodians of this record - we lift the mantle from illustrious company.

If this campaign had to offend a few people by highlighting some home truths in the course of creating a highly effective marketing campaign that achieved national and international coverage of the HELL brand with a limited budget, then that is a price worth paying. And,

if ultimately these complaints are upheld? Well, what else could we say, but 'Bugger!'

We will take any lessons we can from it and eagerly look forward to delivering the next chapter of the story of HELL on earth.

(Addendum: HELL Lust meatlovers pizza campaign)

Our attention has been drawn to the fact that the Board will also assess whether the Lust campaign breached 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).

There was certainly a group of people who were offended by the fact that a condom was delivered to letterboxes. However, did the delivery of a condom offend against generally prevailing community standards? We contend that while some took offence, the number of people was miniscule and can in no way be deemed to have reached the level of a 'prevailing community standard.'

There is perhaps an even more important issue at stake here however: Why is it that a condom should even be considered indecent or offensive in the first place? Certainly they are used in sexual acts (although New Zealand's sexual health statistics confirm not nearly widely enough) but in themselves they are simply bits of latex wrapped in a foil.

The complainants have actually elevated the condom to be a symbol of something that they would prefer not to have to confront – and that is human sexuality in general.

In light of this, the moral outrage of the complainants was not about condoms per se. It was about what condoms represent. To have to confront the fact that people might want to have sex shatters the whole house of cards they have constructed. They live in an illusory world where no one has sex outside marriage, where gays are branded as deviants and STIs only affect the promiscuous and wayward.

They complained about the fact that their children might open the cardboard wallet and read about penises and vaginas and ejaculation. They claim these words are indecent, which is of course preposterous.

There is nothing indecent or offensive about a condom. They are displayed in full view in supermarkets (where parents take their young children) in dairies and service stations.

The complainants say that delivering such a thing to letterboxes 'exposes' their children to concepts that should be left to parents to explain at an appropriate age. The statistics speak for themselves.

We contend that New Zealand has not been offended by HELL's condoms. There was incredible support for the campaign. That support has come from throughout New Zealand, from organizations involved in sexual health and from around the world."

Deliberation

The Complaints Board reviewed all the material relating to the complaints and the responses from the Advertising Agency on behalf of the Advertiser.

The Chairman directed the Board to consider the complaints with reference to the Code of Ethics, Basic Principle 4 and Rules 4 and 5.

The Complaints Board noted that a significant number of complaints had been received, both from those who had received the promotion in their letterbox and also from Complainants that had been made aware of the promotion via a range of news media or through email correspondence.

A number of issues were raised by Complainants in relation to the promotion – the most significant being the method of delivery namely to letterboxes, unaddressed. The Board confirmed its position that unsolicited mail distributed in this manner provides the audience with little control over its receipt.

The Board noted the response of the Advertiser raised a number of issues in relation to the positive benefits of a promotion that raised awareness about safe sex and condom use. Whilst, the Board agreed that there is significant value in educating the right audience about the importance of safe sex, it considered that distribution of condoms via letterbox delivery in support of a promotion for a food product was unlikely to target those audiences that would benefit from such information.

Instead, the Board considered that insufficient consideration had been given to the likelihood that several sections of the community could be offended by such a random approach to advertising. It was felt that the use of other media, which specifically targeted those at risk – such as a young adult audience, would have been more appropriate. Failure to have done so highlighted the fact that the promotion and the medium chosen were primarily designed to promote the brand and the product rather than the important social concepts espoused in the Advertiser's response to the complaints.

In turning to the Code of Ethics, the Board considered whether or not the promotion was in breach of Basic Principle 4 of the Code, which required all advertising to be prepared with a due sense of social responsibility to consumers and society. The Board agreed that the unsolicited, unaddressed delivery of a condom to letterboxes to promote a food brand did not meet that standard. Accordingly the advertising promotion was in breach of Basic Principle 4.

The Board then considered Rule 4 (Decency) and Rule 5 (Offensiveness). The majority of the Board considered that the method of distribution was a key factor in considering whether or not the promotion had breached the Rules, taking into account the random context, medium, audience and product. The majority of the Board noted that it was difficult to target specific groups or ages using unaddressed letterbox distribution. In addition, it was

concerned that such a method of distribution allowed any member of a household access to the advertising.

While the majority of the Board did not find the promotion and the wording it used offensive as an advertising message per se, they agreed that the promotion was likely to cause serious and widespread offence in a number of communities, on the basis of the method of distribution and was therefore in breach of Rule 5.

For the same reason, the majority of the Board also considered that the promotion was in breach of Rule 4 of the Code in light of generally prevailing community standards.

A minority of the Board considered that the promotion was not in breach of Rule 4 or Rule 5 of the Code of Ethics. The minority agreed that while the promotion had caused offence to some, this was offset by the possibility that the promotion had reached an audience that may not access the safe sex message via other media.

Accordingly, the complaints were unanimously upheld in relation to Basic Principle 4 of the Code of Ethics and upheld by majority in relation to Rules 4 and Rule 5.

Decision: Complaint **Upheld**