

Advertising Standards Authority of South Africa

(Association incorporated under Section 21)

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Willowview Burnside Island Office Park (entrance off Athole) 410 Jan Smuts Avenue Craighall Park PO Box 41555 Craighall 2024
Company Registration Number 1995/00784/08 Non-profit Registration Number 043-694-NPO

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To: Mr Lolly Jackson **Fax:** 011 – 807 4101
Owner
Teazers

Cc: Ricardo **Fax:** 011 – 807 4101
Teazers

From: Ms Jabulile Nhlapo

Date: 17 May 2006

Reference: TEAZERS / M HUCKLE & OTHERS

Dear Mr Jackson

We refer to the above matter and enclose herewith a copy of the Advertising Standards Committee Ruling

Yours sincerely

THE ADVERTISING STANDARDS AUTHORITY OF SOUTH AFRICA

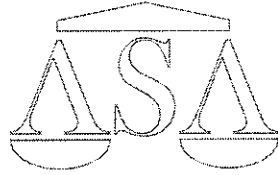
PP M. Nhlapo

JABULILE NHLAPO
ADMINISTRATOR : COMPLAINTS ASSESSMENT
MF

Encl: ASC Directorate Ruling (11 pages)

President ME King S C

Directors DE Baloyi (Chairperson) IRB Shepherd (Vice Chairperson) DA Beukes (Executive Director) RC Abrahams SF du Plessis IR May NV Nkomo G Klintworth



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RULING OF THE ADVERTISING STANDARDS COMMITTEE

In the matter between:

MARSHA HUCKLE	FIRST APPELLANT
MICHELE VRDOLJAK	SECOND APPELLANT
MONGI TSHABALA	THIRD APPELLANT
NEIL COSSER	FOURTH APPELLANT
TK AENMEY	FIFTH APPELLANT
TONI MCADAM	SIXTH APPELLANT
JEAN COOKSON	SEVENTH APPELLANT
ROBYN MARAIS	EIGHTH APPELLANT
YVETTE PIETERSEN	NINTH APPELLANT
PAULA VIEGAS	TENTH APPELLANT
TAMLYN MONSON	ELEVENTH APPELLANT
JEANNE BEUKES	TWELFTH APPELLANT
WIEHAN VAN DER MERWE	THIRTEENTH APPELLANT
KATHY VAN HOLTHOON	FOURTEENTH APPELLANT
L BURNS	FIFTEENTH APPELLANT
MS VANESSA SANTRUCEK	SIXTEENTH APPELLANT
COLLETTE WASIELEWSKI	SEVENTEENTH APPELLANT
BARRY MAITLAND-STUART	EIGHTEENTH APPELLANT
H KUMPF	NINETEENTH APPELLANT
DAVID BALL	TWENTIETH APPELLANT
MRS D HERHOLDT	TWENTY FIRST APPELLANT
AGUEDA COLOM	TWENTY SECOND APPELLANT
MS CA JORDAAN	TWENTY THIRD APPELLANT

President ME King S C

Directors DE Baloyi (Chairperson) IRB Shepherd (Vice Chairperson) DA Boukas (Executive Director) RC Abrahams SF du Plessis IR May NV Nkomo G Klintworth

and

TEAZERS RESTAURANT (PTY) LTD

RESPONDENT

TEAZERS / M HUCKLE & OTHERS

At a meeting of the Advertising Standards Committee ("the Committee") held on 28 March 2006, the Committee considered complaints against Teazer's billboards in and around Johannesburg. Although these complaints were presented to the Committee as three separate sets of complaints, the Committee will consider all the complaints as one. The complaints against the billboards are that they are offensive, objectify or stereotype women, are harmful to children, pose a potential safety risk, and are overtly sexual and demeaning to women.

There are several billboards under consideration:

- A billboard with a picture of a guava;
- A billboard with a picture of a kitten, with the words "Ours are playful".
- A billboard featuring an oyster that allegedly resembles a woman's genitals;
- A billboard with a woman's torso, showing her hands in her pants, which says, "itching for action?"
- A billboard showing a pole dancer with the words "Always in pole position".
- Various billboards with women's torsos, stating "Not your average lounge!", "Girls that stop traffic!" and "At Teazers our Girls don't Lounge Around" respectively.

RELEVANT CLAUSES OF THE CODE OF ADVERTISING PRACTICE

In light of the issues before the Committee, the following clauses of the Code were considered relevant:

- Clause 1.2 of Section I – Responsibility to the consumer
- Clause 1 of Section II – Offensive advertising
- Clause 3.5 of Section II – Gender
- Clause 14 of Section II – Children

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REPRESENTATIONS BEFORE THE COMMITTEE

Ms Kathy van Holthoon and Mr Wiehan van der Merwe appeared as complainants in the matter of Teazers / M. Huckle and others. Mr David Ball appeared as a complainant in the case of Teazers / D Ball and others

Mr Lolly Jackson appeared on behalf of the respondent, accompanied by Mr Ryan Neyt of Media Power Solution as an observer.

SUBMISSIONS BY THE COMPLAINANTS

The complaints may be summarised as follows:

With regard to the “Oyster” billboard:

- The sexually explicit advertisement is likely to offend numerous groups including, but not restricted to, Christians, Muslims, people opposed to the objectification of women, women from a wide range of cultures, ethnic groups and ages, and mothers with children.
- The “likely audience” of the advertisement definitely includes children as the outdoor advertisement is positioned on, for example, one of Johannesburg’s busiest main roads and is only a few blocks away from a primary school and a popular shopping mall.
- In terms of “prevailing standards, degree of social concern, and public interest”, it should be noted that South Africa is plagued by widespread rape, sexual abuse and exploitation of women and children.
- Children will definitely be exposed to the advertisement as the huge visual advertisement – which is illuminated at night – is positioned on an extremely busy public road. Parents who do not want their children exposed to this explicit visual advertisement will find it extremely difficult to shield them.
- The advertisement clearly reinforces the sexist stereotype of women as anonymous sex objects

With regard to the "Pole Position" billboard:

- The advertisement is likely to distract drivers, especially male drivers, at an extremely busy, three-phase traffic light. The issue of safety should also be interpreted in light of Johannesburg's heavily congested road network and South Africa's shockingly high road death toll.

With regard to all the billboards:

- The billboards are offensive and objectify women.

OPINION OF THE COMMISSION ON GENDER EQUALITY

The CGE was requested to provide its opinion on these advertisements. It set its views out as follows, *inter alia*:

- All of the advertisements appear where it is reasonably foreseeable that motorists and a wide section of the general public, including children, would involuntarily be exposed to the billboards. This negates the question of choice and on this basis constitutes the main problem *vis-à-vis* the campaign which is suited to a consenting adult market, but which overreaches to a wider audience.
- The billboards fail to state anywhere that the club is open to adults / persons above a certain age only, although it is conceded that those who are familiar with Teazers may be aware of this fact.
- The imagery on the billboard is product relevant and therefore by its very nature provocative, but the Commission is of the view that the advertising perpetuates a negative stereotypical gender role and perception of women as anonymous sex objects for male pleasure. It also fails to consider the negative impact that such risqué advertisements would have not only on impressionable children but also uninformed adults, the effects whereof is to undermine the attainment and promotion of gender equality and women's rights to respect, equality and human dignity

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- In one of the current campaigns under scrutiny, the advertiser uses imagery, respectively comprising food, fruit and an animal to promote the product. This specific campaign, unlike its previous counterparts, does not use any imagery of actual women at all. Instead it relies on derogatory and offensive symbolism to convey its message.
- It is obvious that the images used connote a crude symbolic representation of, or reference to, the female genitalia. In the Commission's view, a reasonable person's interpretation of the intended inferences in the usage of these images certainly does not preclude the gratuitous usage of sexual symbolism to represent the female genitalia.
- The Commission had previously opined that the portrayal of edible commodities or inanimate objects to replace or symbolise an actual female body or part does not render an advertisement less offensive (See for example DSTV Billboard / Lichtenstein). By implication, the campaign symbolically perpetuates and promotes the negative perception that all women are nothing more and nothing less than sex organs and objects for male consumption and "playing". The sexual symbolism used in the campaign therefore also does not portray women as having any agency, emotion or intellect whatsoever, and in doing so causes offence and degradation to women.

SUBMISSIONS BY THE RESPONDENT

The respondent submitted as follows in respect of all the advertisements:

- It has a right to commercial speech
- It is a legal business which has met all the obligations under the Companies Act, and any objections to the nature of its business should not be used to prevent it from advertising its business.
- The billboards complained about should be viewed in the context of similar images in magazines, on TV, and other media
- In regard to billboards depicting food items like oysters, guavas or animals such

as a kitten, these contain a double meaning. In regard to children, only adults who have become familiar with the meaning relating to sexual innuendo would attach such a meaning to the billboard advertisements. These must also be viewed in the context of advertisements such as the FCUK cosmetics where the brand FCUK could be interpreted as what may be considered a vulgar word.

- It has considered putting its advertisements in media which contains advertisements for adult entertainment or on radio or television during or after the watershed hour when adult content advertisements are flighted. The respondent, however, does not want its business to be considered a brothel and will therefore not go for this option.
- Of all the billboards, the only one that the respondent considers will be remotely inappropriate is the one depicting a woman sliding her hand into her panties near the pubic area, with the payoff line across the billboard which reads: *"Itching for action!"*
- Mr Neyt added that Media Power owns its billboards, and have undertaken with the City of Johannesburg, which controls billboard advertising, not to put up images of explicit sex or nudity.
- As regards the context, the respondent submitted that TV games are more explicit in the way they show violence and sex.

RULING BY THE ADVERTISING STANDARDS COMMITTEE

When considering the complaints against the relevant billboards, such advertisements must be considered from the viewpoint of the hypothetical reasonable viewer who is neither hypercritical, nor hypersensitive. The reasonable person's viewpoint must exclude an assessment on an advertisement which embraces matters of personal predilection, taste and the like. (See for example the ruling of the ASA Final Appeal Committee in SABC Ltd / Hillary Venables & Others).

In dealing with the subject of balancing conflicting rights - in this case, the rights of the advertiser and the rights that the Code seeks to protect - the Final Appeal Committee in the SABC matter said the following:

“While none of the rights in the Bill of Rights is absolute, and the rights are subject to limitation, this limitation must be reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom. ... in the balancing process and the valuation of proportionality one is enjoined to consider the relation between the limitation and this purpose as well as the existence as less restrictive means to achieve this purpose. ... further, the onus of proving that the limit on the fundamental right is permissible in terms of the limitations clause, rests upon the party seeking to uphold the limitation.”

An adverse ruling would seek to limit the respondent's right to freedom of expression or commercial speech in the terms set out in Clauses 1, 3.5 and 14 of Section II

The following advertisements are taken together:

- Depicting the lower part of a woman, from the navel to above her knees. She is wearing a bikini with her right thumb underneath the top of the bikini, as if to lower it or take it off. The pay off line is *“Bills that stop traffic!”*
- Depicting a woman's upper body, that is from the neck down to the middle of her thighs. She is leaning forward, wearing a bikini type outfit with her right thumb under the top of the bikini as if to lower it or take it off. The pay off line is *“Not your average lounge!”*
- Depicting a woman's full length body as if sliding down a pole. She is wearing a bra and a G-string. The pay off line is *“Always in pole position.”*
- Depicting a woman from neck down to her thighs. She is wearing a top that covers her breasts and a bikini type bottom. Her right hand is inside the bikini near the pubic area. The pay off line is, *“Itching for action?”*

All these advertisements advertise a strip club known as Teazers. The respondent contends that the advertisements are appropriate for the business that it runs. The

offence taken to these advertisements are by religious persons or persons of certain moral standards who do not accept the existence of Teazers even though it is legal

The respondent made available other forms of advertisement, including billboard advertising, depicting both females and males in more or less the same state of dress to which it believed that there is no objection because those advertisements are not related to a strip club or similar adult entertainment establishment.

The Committee is of the opinion that the women are not portrayed in a manner that exploits, objectifies or demeans them. It is noted that there are images of depictions of women in various other media in a similar or identical manner. The billboard advertisements are as public as the magazine stands that are next to the tills at supermarkets, which are equally exposed to adults and children.

In order to find fault with the women depicted on the billboards, the women must be portrayed in a manner that "exploits, objectifies or demeans" There is no evidence to contradict the respondent's evidence that the women in the billboards have made an autonomous choice to participate in the advertisements. There is further no suggestion, objectively viewed, that the advertisements are intended to lower their dignity. As a matter of probability it cannot be said that a reasonable viewer would conclude that the women's worth is lowered by these depictions. Furthermore, there is no objectification of these women as sex objects. Strip clubs are a recognised trade that both women and men participate willingly in. This situation is distinguishable from the notorious instances of exploitative and forced prostitution by syndicates that lure women and children into the sex trade.

The respondent testified that it employs both men and women in its establishment and adheres to all laws including labour laws. It must be accepted therefore that these women exercised a free choice to be employed at the respondent's business. If this is so, following the Final Appeal Committee's approach in the SABC matter, it must be accepted that a woman has a conscious self and is entitled in a free and democratic society to earn a living in a manner chosen by her, where no laws of the country or the provisions of the Code are violated.

The Committee is of the view that all the billboards, except the advertisement with the woman's hand in her pants near the pubic area, are not offensive in any of the ways referred to above

As to the complaint that the billboards are likely to distract drivers, and therefore create a disregard for safety, Clause 13 of Section II requires that advertisements "should not ... contain any **visual presentation** or any description of dangerous practices or of situations which show a disregard for safety" (Our emphasis). None of the advertisements contain any such visual presentation or descriptions of dangerous practices or situations. Given this, the advertisements are not irresponsible and in breach of Clause 1.2 of Section I in this respect. The complaints in this regard have no merit.

As to the billboard excluded in what has been said above, the Committee is of the view that the advertisement offends against good taste or decency. Unlike the other advertisements which do not make reference to sex, this advertisement carries a strong innuendo that Teazers offers sex as part of its service.

Objectively viewed, this advertisement depicting a woman's hand in her panties next to her genitalia with the accompanying pay off line, is a blatant reference to sexual activity, which should not be advertised in the medium that the respondent has chosen.

The next set of advertisements considered is the one containing imagery or symbolism to convey its message. These are:

- Depicting two guava halves with the pay off line, "*The tease without the sleaze.*"
- Depicting a kitten with the pay off line, "*Ours are playful.*"
- Depicting an oyster, without any pay off line.

The complainants have submitted that the use of an open oyster and the guava cut in half is suggestive of or refers to a woman's genitalia and that the use of a kitten is suggestive of the word "*pussy*" which is also a crude referral to a woman's vagina.

One of the complainants conceded that these images bear double meanings, such as that the use of an oyster is suggestive of an aphrodisiac. The respondent submitted that the use of a kitten, although bearing a double meaning, should also be understood to mean that the women at Teazers could innocently be referred to as kittens.

The respondent submitted also that the sexual meanings to these images can only be understood by adults or by children who have already been exposed to sexual innuendo as suggested by the complainants.

In respect of these advertisements, the contentions of the complainants are not the only inferences that may be drawn from the reading or study of these images or symbols. The images are equally consistent with the respondent's submissions that they bear meanings that do not violate the Code. In this instance the meaning more favourable to the respondent must be adopted (see for example the Appeal Committee ruling in the SABC matter). A child or less sophisticated adult would be likely to understand the less risqué interpretation of the advertising and would therefore not be harmed or offended.

It is also noted that there is no explicit depiction of sex, and the symbolism or imagery is not transposed with the female the body to draw a direct link with that body part, as was the case in the matter of DSTV Billboard/C Lichtenstein.

The Committee wishes to thank the Commission on Gender Equality for its submissions which were very helpful in considering these matters. The Committee also thanks Ms Beth Goldblatt from the Centre for Applied Legal Studies, who was co-opted on to the Committee for her participation and valued contribution in the discussions.


For the reasons, stated above the Committee is of the view that all the advertisements, except for the one of the woman with her hand in her panties, do not violate the clauses on gender, safety and children.

In conclusion, the Committee finds the billboard advertisement with the pay off line "*Itching for action?*" to be offensive and therefore in violation of Clause 1 of Section II of the Code.

The respondent is therefore required to:

1. Withdraw the advertising material in its current format;
2. The process of withdrawing the material must be actioned with immediate effect;
3. The process of withdrawing the material must be completed within the deadlines stipulated in Clause 15.3 of the Procedural Guide; and
4. The material may not be used again in its current format in future.

The complaints in respect of all other billboard advertisements are dismissed.



GCINA MALINDI
CHAIRPERSON OF THE ADVERTISING STANDARDS COMMITTEE

16 May 2006
DATE