

MEDIA AESTHETICS COMPONENT OF ADVERTISING COMMUNICATION
AND CONSUMER RIGHTS VIOLATION: A STUDY OF SELECTED TELEVISION
ADVERTISEMENTS

by

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APPROVAL

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CONSUMER RIGHTS VIOLATION: A STUDY OF SELECTED TELEVISION
ADVERTISEMENTS
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17-1524

In accordance with Daystar University policies, this thesis is accepted in partial fulfillment of the requirements for the Master of Arts degree.

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DECLARATION

MEDIA AESTHETICS COMPONENT OF ADVERTISING COMMUNICATION AND
CONSUMER RIGHTS VIOLATION: A STUDY OF SELECTED TELEVISION
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I declare that this thesis is my original work and has not been submitted to any
other college or university for academic credit.

Signed: _____
Francis K. Wachira
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Date: _____

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I thank the Almighty God, in whom are hidden all treasures of wisdom and knowledge. This journey would have been an exercise in futility were it not for His grace.

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LIST OF ABBREVIATIONS AND ACRONYMS

APA	Association of Practitioners in Advertising
ASB	Advertising Standards Board
ASBK	Advertising Standards Board of Kenya
COFEK	Consumer Federation of Kenya
KTN	Kenya Television Network
MLE	Media Literacy Education
MSK	Marketing Society of Kenya
NTV	Nation Television
TV	Television
UK	United Kingdom
UNCTAD	United Nation Conference on Trade and Development
USA	United States of America

ABSTRACT

The main purpose of the study was to analyze the media aesthetic component of advertising communication and its violation of consumer rights in selected television advertisements. The study aimed to analyze the application of media aesthetics elements in select television advertisements in Kenya; examine consumer protection regulations put in place to guard against violation of consumer rights; and find out how, if at all, the media aesthetic elements in these television advertisements violate consumer rights. The media aesthetics theory and media literacy model by Zettl formed the study's theoretical framework. The study chose five advertisements in different categories. These advertisements were purposively selected based on their commercial transaction. Data was collected by use of textual analysis for the advertisements and Focus Group Discussion. The qualitative data was analyzed for the aesthetics elements application, the observance of consumer protection regulations, and ways that they may be found to violate consumer rights. The findings indicated that the building blocks for contextual aesthetics have been applied in the advertisements. The focus group discussion (FGD) pointed to a direct link between the aesthetic elements and consumer patronage. The study concluded that contextual media aesthetics are critical building blocks for media literacy, the Consumer Federation of Kenya (COFEK), though formed with good intentions, has not succeeded in championing people's rights and consumers agree that there is a growing number of deceptive advertisements. The study recommended that there is need for media literacy among consumers.

CHAPTER ONE

INTRODUCTION AND BACKGROUND TO THE STUDY

Introduction

Media aesthetics is the process through which multimedia elements are examined (Zettl, 2017). These elements include, but are not limited to, how lighting and sound interact and our perceptual reactions towards them. The subject of aesthetics has experienced increased relevance in recent years in advertising particularly the imagery of the items being advertised (Petrovici, 2016).

Consumer rights, as envisioned by the Constitution of Kenya 2010, Article 46 (2) constitute of legislation meant to provide for consumer protection and to ensure that there is honest, fair, and decent advertising (Kenya Law, 2010). Kennedy raised four major broad areas of consumer rights namely safety, information, choice, and the right to be heard (Lumen, n.d). The consumer purchases a product for direct use or ownership and rights are entitlements they have, either granted morally or legally. Consumer rights, therefore, are entitlements that are owed to the purchaser by the producer or supplier. Advertising is the best example of Commercial Speech as it entails communication that is meant to provide consumers with the right to information for product purchase decision making (Mucheke, 2019).

The violation of consumer rights can be viewed in the sense that advertisements sometimes can give a product quality that they may not have. This comes through over-emphasis on the art of communication as opposed to a focus on the actual output of a product. The implication is that advertisements are not only viewed as a point of sales but also how the aesthetic elements are applied to clarify the advertisement message.

There must be healthy interaction between the media aesthetics elements and the violation of consumer rights. Media aesthetics elements should be applied in advertising communication with a level of sensitivity and care, thinking about the consumer as much as the sales of products. This chapter covered the background information and the problem statement, the purpose and objectives of the study and the research questions that were addressed. Justification and operationalization of terms were also covered to illustrate how specific terms will be applied.

Background to the Study

Advertising communication in the commercial arena has experienced robust growth. This has been facilitated by globalization and the impact of new technologies (Herdero & Chaves, 2016). Initially, the way of doing business was solely driven by demand and supply. The growth of companies that manufacture similar products has facilitated the shift to brand and its management to influence the masses towards the purchase of these products and services.

The integration of aesthetic elements and advertising can be traced to around 1900 (Herdero & Chaves, 2016). This is the period that the vanguard artists thought of advertising as a platform where they would create a new urban space in the display of domestic products. At this point, art became involved in the creation of brand images of the emerging consumer society. Herdero and Chaves (2016) opined that it would take some decades when art would be substantively and more elaborately be infused in advertising in the postmodern culture. Nevertheless, the phenomenon is now more felt and present in almost every advertisement. In the 20th century advertising, the limit between art and advertising has been diminishing.

The commercial interest of advertising is to publicize products and services to potential buyers by sending out messages with persuasive information (Mucheke, 2019). The freedom of information, in which the ability to send advertising information is premised, enables potential consumers to receive information on products and services. Advertising may take various forms such as leaflets, pamphlets, explanatory guides, billboards, newspaper publications, radio advertisements, and multimedia content (Ngari & Muhanji, 2015). Due to the demand by organizations to advertise in the media, advertisements have become a major source of financing for the media. For the case of commercial media houses, many of them would close if they do not receive the advertising business.

The use of advertising to disseminate information about products and services enjoys legal protection in several jurisdictions. In the United States of America, for example, advertisement, put under the umbrella term “commercial speech” enjoys protection under the First Amendment which prohibits the enactment of any law that would act as sabotage the freedom of information and expression (Mucheke, 2019). In Kenya, the consumers' protection rights are anchored in the Constitution 2010, thereby making providers of goods and services meet the constitutional obligation provided for in Article 46. The consumer is protected from advertisements that are deemed to gravitate towards deception. As a top priority in the hierarchy of rules in the First Amendment, the regulation of advertising messages is highly prioritized. This protection is necessary not only to ensure that consumers receive information on new products but also to give the producers a chance to advertise. This may sometimes favor the producer at the expense of the consumer. An example is in the United States where advertising of tobacco is not prohibited because

prohibiting them would cause losses to the manufacturers despite its known effects on health on the part of the consumer.

Advertising is also regulated in the United Kingdom through the Advertising Standards Authority, established in 1962 to keep advertising legal, decent, honest, and truthful. The authority regulates the advertisements for misleading by the various aesthetic elements utilized and the impression created on the consumer. Equally, India has enacted the Consumer Protection Act (1986) to protect the interests of consumers in the advertisements as well as establishing the Consumer Protection Council to settle the disputes that may arise between the consumers and the producers.

In Africa, South Africa, Nigeria, Uganda, and Kenya have enacted regulations that protect consumers from deceptive advertisements. South Africa has legislation in force, the Consumer Protection Act, to regulate the advertising industry by checking unfair marketing and truthful advertising information (Mucheke, 2019). In Nigeria, there is no explicit law that is specific to consumer protection, but advertisement is regulated through some federal and state laws (Ndubisi, Anyanwu and Nwankwo, 2019). The Nigerian Code of Advertising Practice and Sales Promotion is a major guide in the advertisements of alcoholic drinks and especially where they feature children (Mucheke, 2019).

In Uganda, advertising is regulated through various laws, for example, the Press and Journalism Act, which delegates the regulation of advertising to the Media Council of Uganda (Busiku, 2017). In Kenya, various laws have been put in place to regulate advertising such as the Competition Act, Sec 55(b), which outlaws making a false or misleading representation about the quality, use, place of origin, or guarantee of a product (Competition Act). For example, the manufacturers of Omo detergents sued Proctor &

Gamble, the manufacturers of Aerial in 2013 purporting that, Aerial manufacturers would not substantiate cleaning clothes in “just one wash” *mwosho mmoja*. This, Unilever argued, depicts Omo as an inferior wash compared to Aerial. According to the Kenya Law Review, court case no. 370 of 2013 suspended advertising of aerial arguing that Omo would suffer irreparable damage. An appeal was made the following year and the case was forwarded to Advertising Standards Committee for arbitration which later failed (Kenya Law, 2015).

The other case for deception through the application of aesthetic elements in Kenya is in Petition 254 of 2016 a case involving James Kuria (the petitioner) and Safaricom as a fourth respondent. This petition is in the Kenya Law Review. The petitioner avers that Safaricom sent him an unsolicited message to subscribe to a bundle that would enable him to save up to 85% of his calls. Enticed by the message, he subscribed and immediately got a deduction of Kshs. 4,999/-. the Petitioners complain that the above information was not disclosed to him before the subscription. Further, he states that the initial message was misleading and or contained material non-disclosure especially on the charges he would get, hence a violation of Article 46 of the Constitution and provisions of the Consumer Protection Act (Kenya Law, 2016).

Commercial speech rights in advertising communication are geared toward consumer’s right to access product information. Thus, the expectation is that the consumer is informed as much as possible about the utility of a product they intend to buy. Although commercial speech rights are about the consumer, there are also other players involved. In this case, we have television stations and institutions promoting the products. This tripartite association should ensure that the consumer is reliably informed about product qualities in a truthful

manner. While advertisements are meant to be persuasive, they should not be false or misleading (Herederó & Chaves, 2016).

The application of media aesthetics in advertising communication is a unique value proposition for organizations that want to make a visual appeal to consumers. With the growing competition for organizations offering similar products, therein lies the potential for misleading advertisements through the claims made by advertisers (Mucheke, 2019). For example, in advertising mineral water, the basic components of water are universal apart from the source and packaging.

Television advertising, which derives from commercial speech, is ideally supposed to give truthful information about the utility and appropriateness of the product or service advertised. But the main drive-in advertising is to persuade people to buy products, which means that advertisers often take artistic license to ensure their advertising is as lively and attractive as possible to capture the attention of the people they target, as well as influence them to purchase the product or service on offer (Asemah, Edegoh, & Ogwo, 2013).

It is the ethical issues in the use of the various aesthetic elements that enhance the visual appearance of advertisements to influence the behavior of consumers that this study sought to examine, especially as regards the application of the consumer rights and ways in which the rights are violated in select television advertisements.

Statement of the Problem

Given the foregoing, it is beyond any shadow of a doubt that the media has the responsibility of protecting consumers from deceptive advertising. Nonetheless, most times, it has failed in this mandate especially where advertisers influence editorial decisions

(Morissan, 2019; Mucheke, 2019). This has gone further to penetrating the news, affecting how they are framed and delivered to the audiences. Besides, advertisers can introduce their messages to new programs that blur the line between advertorial and editorial content (McChesney, 2008). Thus, the phenomenon of exaggerated or outright misleading advertisements in television advertising is rampant despite the huge legal framework in place prohibiting it (Mucheke, 2019).

The legal frameworks developed to regulate advertising include the Code of Advertising Practice and Direct Market 2003, Kenya Consumer Protection Act 2012, Competition Act, and The Kenyan Constitution Article 46. Despite these laws, there have been complaints about deceptive advertising in the Kenyan Media by the Consumer Federation of Kenya (COFEK) and the Communication Authority of Kenya (Mucheke 2019).

While studies on consumer rights awareness and its effects on consumerism in Kenya (Njuguna et al., 2014); the morality of the advertising practice (Muriungi, 2002); and the ethical issues in advertising and marketing (Mathenge, 2013) have been done in Kenya, a dearth of research, exists where the issue of how media aesthetics component of advertising communication in television affects the rights of consumers in the country. While one study does touch on consumer law and policy (Malala, 2018), it does not investigate the violation of consumer rights when advertisements promise more than they can deliver. Additionally, Mucheke (2019) interrogates commercial speech rights in the Radio with a focus on continuity announcers, celebrities, and Disc Jockeys (DJs), but does not raise the question of the application of media aesthetics.

To address this problem, this research sought to analyze the application of various media aesthetics elements in television advertising, to determine the application of the various

consumer protection regulations with a view to unearthing ways in which consumer rights are violated in select television advertisements.

Purpose of the Study

The purpose of this study was to analyze media aesthetics elements and violation of consumer rights in select TV advertisements and to determine ways in which advertisers, in the process of creating the sales message, violate consumer rights.

Objectives of the Study

1. To establish media aesthetics elements in select television (TV) advertisement (advertisements) in Kenya.
2. To find out if and how the media aesthetics elements in these TV advertisements violate consumer rights.
3. To examine protection regulations put in place to guard against violation of consumer rights in these TV advertisements.

Research Questions

1. What are the elements of media aesthetics applied in select television advertisements in Kenya?
2. How do the media aesthetics elements in the selected television advertisements violate consumer rights, if at all?
3. What are the protection regulations put in place to guard against violation of consumer rights in the selected television advertisements in Kenya?

Justification for the Study

Research on media aesthetics and its application in advertising communication was limited research at the time of conducting this study. Whereas advertising communication can be used as a tool to violate consumer rights, little or no research exists. The Media Aesthetics Theory and the Media Literacy Model have sparsely been mentioned in any research. The closest association concerning research on visual advertising is Multimodal discourse analysis (Chepchirchir & Mwangi, 2020) which does not explain how manipulation in the use of visual elements occurs.

The study chose television advertisements specifically due to the wide application of media aesthetics in the advertisements and that it is easier to appeal to more people through motion images rather than other elements such as audio and imagery in newspapers and billboards among others (Zettl, 1998). Further, the media aesthetics theory and the media literacy model are hinged on television advertising.

This study was also premised on the proposition that advertisements on television have a greater potential to mislead consumers due to the employment of aesthetic elements. These elements include the quality of output of the product which in many cases it is exaggerated, the use of celebrities to endorse products and services they may not have used before and the use of children who may not have an idea of the ingredients of a product let alone appreciating its utility.

Significance of the Study

There has been little research on the area of consumer rights and advertising communication in television. The findings here are hoped to add to the body of knowledge, specifically adding a voice on the growing interest in media aesthetics analysis.

Consumer rights infringement is a source of concern worldwide. The use of media aesthetic elements for advertisement communication has helped media houses, commercial organizations, and advertising agencies better communicate the value of a product to a consumer. However, when the attributes are stretched to make more sales; this becomes consumer deception.

The findings of this study are hoped to help consumers reflect on media information and the interaction of consumer rights and advertisements. Other bodies that may benefit from the study include lobby groups, the government, and advertising regulators.

As a communications practitioner and one with a great interest in media analysis and communication ethics, the researcher greatly benefited from engaging in this research. Notably, the researcher's understanding of the operation of the media, advertising, and consumer rights legislation has been enriched. This knowledge has, no doubt, made the researcher a better practitioner, by helping him think about the implications of any media communication beyond its face value.

Assumptions of the Study

In this research, some assumptions were made. They include the commercial interests of commercial media houses sometimes override the protection of consumers from deceptive advertising through exaggeration of advertising communication. There is, therefore, no

healthy balance between the truthfulness of the advertisement and the media houses' stand to broadcast that which is truthful to the consumer. Secondly, the law governing the application of consumer rights has not been properly addressed in Kenya's advertising communication especially in television advertisements.

Scope of the Study

The study analyzed the media aesthetics component of television advertising in Kenyan and the violation of consumer rights. Five advertisements in different areas, available and watched on YouTube as well as airing during the prime hours of the leading television stations were analyzed for the application of media aesthetics elements and violation of consumer rights. This was analyzed not only in the context of the right of advertisers to be creative to do compelling advertisements using the mass media but also in the observance of consumer rights when promoting goods and services. This was centered around three main areas which are: application of media aesthetics in advertising communication, the observance of consumer rights, and how/if the aesthetics elements violate consumer rights.

The study also restricted itself to the manipulative power of the advertisements to the consumer and did not get into the areas of consumer behavior and motivations for product use. Further, there are several legislations guiding consumer behavior, but this study chose the Consumer Federation of Kenya and its association with the Consumer Protection Act 2012.

Limitations and Delimitations

Time constraint was a drawback to the successful completion of this work. This was a reality since during the undertaking of this study, the researcher was in a full-time

employment coupled with family responsibilities. This was mitigated by setting specific times during the week, especially after work, and weekends to catch up with research activities.

Owing to the outbreak of COVID-19 in Kenya from March 2020 when the first case was announced, conducting FGDs on a face-to-face basis was greatly harbored. The researcher, therefore, used an online interactive platform to engage the people targeted for discussions.

Numerous advertisements are airing on YouTube daily. These advertisements fall in the categories of children's products, vehicles, machinery, building construction, groceries, medicine, detergents, real estate, and among others. The list of advertisements is endless, this is besides, many advertisements aired on television stations in a day. This study focused on advertisements for fast-moving consumer goods specifically detergents, aerial advert, real estate (the Optiven advert), Children's products (Molfix), Holiday homes (Chaka ranch), and cooking oil (Fresh Fri).

Definition of Terms

The following terms used in this research should be understood as follows:

Advertising: Dianoux, Linhart and Vnouckova (2014, p. 13) defined it as, “the conduit through which meanings are constantly transferred from the culturally constituted world to the consumer good.” This term was used here to refer to building the brand of products, by the producer, in the Kenyan television space during the hours of 6 p.m. to 9 p.m. This was done to draw the attention of the consumer to patronize a product(s). This is in the context of stiff competition where advertisements of different products with the same qualities compete for the attention of the consumer.

Advertisement (Advert): This refers to the announcement in the media about a product or service. In this case, the advertisement is in the form of visuals for broadcast on television stations in Kenya (McChesney, 2008). The advertisements studied are mainly in the categories of fast-moving consumer goods, leisure and real estate being aired in the Kenyan television stations.

Advertisement communication: According to Dyer (1982) in his book Advertising Communication, advertising communication is an interest based persuasive model where a producer aims to persuade the consumer to buy their product. For this study, advertisement communication was viewed as advertising content used to create the perception of a product's ability to make visual appeals to the consumer. These appeals may not necessarily point to the actual product qualities.

Consumer: A consumer purchases goods for direct use or ownership rather than for resale (Lumen, n.d). For this study, the term referred to a person or a group of people that are the target of the select advertisements that will be analyzed.

Consumer rights: These are legislations put in place to ensure that an advertisement does not share false information or aspects that may not be familiar to the audience but will make them react in a certain way. Consumer rights are entrenched in ethics for advertisements (Petrovici 2016). For this study, consumer rights were understood as a responsibility that the advertisers and the media have towards protecting the consumer from receiving information that is not true or has been exaggerated.

Consumer protection: According to the United Nations Conference on Trade and Development (UNCTAD, 2017), consumer protection is the intrinsic disparity in the

consumer-supplier relationship specifically on knowledge, bargaining power and other resources. Consumer protection was used in this study to mean the duty the supplier owes the consumer in truthful advertising.

Deceptive advertising: This is where an advertisement conveys a false impression on the quality of a product “even if it is literally true” (Arens, 2002, p. 73). In this study deceptive advertising was viewed as an advertisement that contains inaccurate and false information about the utility of a product.

Mainstream media: This is a term and abbreviation used to refer collectively to the various large mass news media that influence many people, and both reflect and shape prevailing currents of thought (Noam, 2009). This study narrowed to four media outlets considered mainstream: Royal Media Services, Standard Media Group, Nation Media Group and MediaMax Network Limited while comparing the advertisements viewed online to the ones in leading media houses.

Media aesthetics: Zettl (2017) has defined aesthetics as the application of art and experience in the intensification and clarification of media messages. In this study, media aesthetics was viewed as the visual components used to improve the appeal of a product in an advertisement.

Media aesthetic elements: Aesthetic elements include light, sight, sound and motion and their utility in creating visual appeals to create a valuable brand differentiation (Zettl, 2017, p. 1). In this study, the aesthetics elements constituted Zettl’s typology which put them as “light and shadows, color, two- and three-dimensional space, time and motion, sound, and how these elements are structured in encoding” (p. 1).

Television advertising (TV advert): Television advertising is TV programming produced and paid for by an organization to promote a product or service (Faisal, 2013). This study used the term in reference to the audio-visual promotional clips airing on Kenyan TV stations.

Summary

This chapter has given a background of the research topic, the statement of the problem, the purpose of the study, the objectives of the study, rationale, and significance of the study. The operational definition of terms, the study scope, and limitations, and delimitations of the study have also been provided.

In the next chapter, a review of related literature is addressed.

CHAPTER TWO

LITERATURE REVIEW

Introduction

This chapter presents a literature review of the study. It covers the theoretical review of the study as well as the empirical research gaps that exist in the analysis of the interaction between aesthetic communication in television advertising and consumer rights to identify research gaps for the current study. The chapter concludes by providing the conceptual framework that will guide the study.

Theoretical Framework

Scholars have debated the utility of contextualism and autonomy in media aesthetics elements (Hausken, 2018; Zettl, 1998; Zuidevart 1990). Both views have their application and utility in the field of aesthetics and advertising communication. For example, the autonomy theorists argue that artwork can be distinguished by intrinsic aesthetic properties while contextual theorists argue for artwork is a consequence, not a determinant, of life and experience (Metallinos, 1996). This study was based on contextualist theories.

In this category of contextualist theories, there are some theories such as the semiotic theory of media aesthetics that is based on the visual imagery of advertisements and language. Pepper's theory of aesthetics is another one in this area that is also founded on life's experience and its relation to art (Edman, 1939). This study narrowed down to the media aesthetic theory and the media literacy model by Herbert Zettl (1998). Zettl's media aesthetic theory was chosen because it has formed a basis for the development of television aesthetics as well as the incorporation of sight, sound, and motion as critical aesthetic

components in addition to its contextualist approach. The media literacy model is anchored on the media aesthetics theory (Metallinos, 1996). The main application of the model is that it shows how media aesthetics elements can be applied through aesthetic and associative context (Level 2) to misrepresent a product quality at the expense of the consumer. Further, the Media Literacy Model is the most recent, empirically proven model that gives a framework for media literacy.

Media Aesthetics Theory

The media aesthetics theory of Zettl (1990) falls under the contextualistic theories of media aesthetics. The contextualist theory of media aesthetics is premised on the proposition that how an individual experiences the quality of life influences how they are capable of experiencing aesthetics. For example, if one perceives that an advertised product on the television seems to have better quality than what they are already using, then they are easily predisposed to making an aesthetic judgment that may influence their purchase decision.

Zettl first developed this theory in 1990. His main focus was to relate media aesthetics and contextualism where he argued that the interception of the two is creating a framework for establishing and describing an operational field within which media aesthetics elements can be analyzed. He suggested that the elements would include “incidents of life, art and life, art as clarified and intensified experience, and order and experienced complexity.” (Zettl, 2017, p. 2). The arguments have been further extended in a revised edition of sight, sound and motion published in 2017 (Zettl, 2017)

As a contextualistic theorist, Zettl (2017) argued that what happens on television should not be disconnected from what happens in real life. This is because the consumers of the

media will tend to relate what is happening in their lives to what is broadcasted. Products broadcasted by the media are viewed as “significant, expressing the incidents, enormous complexities and multiple experiences of life. Hausken (2018) asserted that this field is heterogeneous and complex and lauds Zettl for giving this field a more practical approach as opposed to other researchers who have attempted to dive deeper into this area (Mitchelle and Hansen 2011).

The media aesthetics theory by Zettl (1990) proved useful in answering the first objective where the researcher examined the media aesthetics elements and how they have been utilized in select advertisements in televisions in Kenya. The various aesthetics elements such as sound, light, motion and color were analyzed in the context of intensification, clarification, and interpretation of experience.

Media Literacy Model

The media literacy model was developed by Zettl (1998) to explain the role of contextual media aesthetics in understanding and appreciating media literacy. Of interest are the basic aesthetic building blocks of aesthetics and their influence on the consumer’s cognitive and affective mental maps. The building blocks of this model attempts to show the hierarchical relationship between the four levels: (a). what screen images are made of (basic image aesthetic elements), (b). how they are structured, and (c). our perception toward them and how that affects us and how they fit in the various intellectual and cultural frameworks for media analysis. This is presented in Figure 2.1.

According to Zettl (1998), level 1 is concerned with the analysis of the basic aesthetic elements such as light and color, the 2-Dimensional (2D) space, 3D space, time/motion

and sound. Level two is concerned with contextual media aesthetics while level three is on applying contextual aesthetics in critical analysis. The final level is hinged on the synthesis of both content and form, and their influence on encoding and decoding media messages.

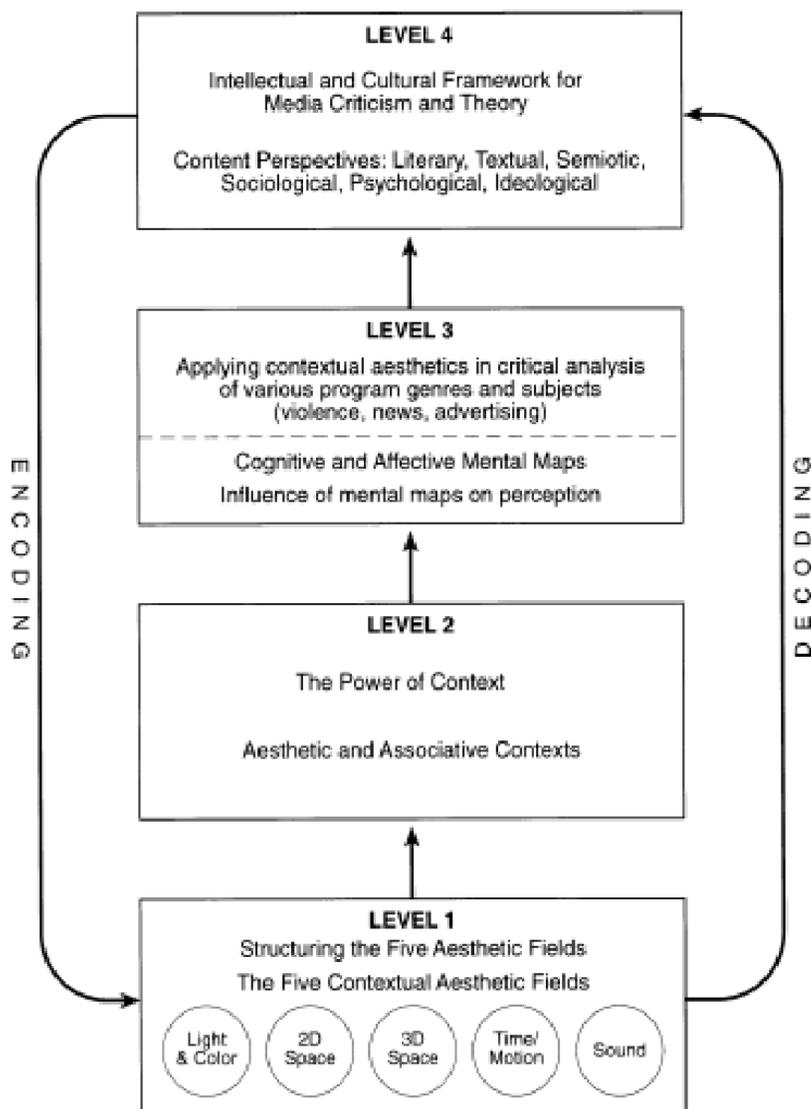


Figure 2.1; Media Literacy Model

Source: Zettl (1998)

Zettl (1998) has used this concept to explain the growth of dubious advertising where optical illusion has been used in advertisements to shape our perspectives. In applying this concept to advertising, he notes that large corporations have used to influence children to determine the purchase behavior of the products. While decrying this violation of consumer rights, Zettl refers to this as “evils of consumerism” driven by suppliers of products. A proper understanding of how the four levels are theorized in advertising messages will help critique the “willful manipulation” of products by the various media.

Flemming (2014) supported the application of this theory in media literacy education (MLE) saying that the foundational assumptions that inform the various hierarchical levels are important to understand how viewers develop mental maps where perceptions are shaped. This model was used in this study to appreciate media literacy in television advertising. Specifically, understanding the application of aesthetics in media messaging in relation to the television advertisements, and how manipulation of the aesthetic elements is conceptualized and promoted to consumers whose level of decoding of the media messaging is dismal.

General Literature Review

Media Aesthetics in Television Advertising

As Aufderheride (1991) explained, the public share the social effects of both private actions, such as crime and pollution, and governmental actions, such as war and educational projects, as well as a common interest in addressing these effects in its defense. What the public is not, however, is consumers. Nonetheless, since rational debate and consensus have been replaced by managed discussion and manipulation by the

machinations of advertising and political consulting agencies (Kellner, n.d.), publicity loses its critical function in favor of a staged display, so that one responds to arguments communicated over media such as television not by arguing with them but only by identifying with them (Habermas, 1989).

With the media assuming advertising functions, it becomes important to investigate the role aesthetics play in the whole affair. Petrovici (2016) explained that advertising imagery is meant to abide by a series of aesthetic principles relating to “order, proportion, ration, equivalence, size, unity, variety... so that a pleasing and simultaneously high-end quality aspect of the product can be relayed, all for the practical value of capturing the interest of the intended audience (p. 749).

The essence of advertising is to persuade people to buy products. As Asemah et al. (2013) explained, aesthetics is all about beauty, and its elements in television advertising include sound to make advertisements lively; attractive characters that induce viewers to assume that using the advertised product will make them (the viewers) look like the characters; dance, to both capture attention and influence people to purchase the advertised product; music, to influence emotional responses and behavioral intentions towards products; and attractive color, which enhances the visual appearance of advertisements, and to some extent influence the behavior of people.

Violation of Consumer Rights in Television Advertising

Since advertising is a communication that is aimed at persuading people to purchase goods and services, it follows that every advertisement must create something that appeals to consumers so that it might achieve its aim of convincing them to take certain positive steps

– meaning that for such an advertisement, certain aesthetic elements must be incorporated or else there will be no appeal to its targeted population (Asemah et al., 2013). Given the potent nature of advertising, particularly in the creation of mental pictures or images in the minds of people, concerns rightfully arise as to the nature of the ethics and ethical issues that are associated with the practice.

Bryamjee, Klein, and Batra (2010) explained that advertising perpetuates a paradox because while it is touted by business and academy as a major economic, social, and competitive force in various economies to inform consumers about available products and help guide them in the buying process, it is also a bull's-eye for public wrath, particularly because evidence exists that demonstrates there are both investor concerns and consumer suspicion and antipathy toward advertising ethics. Indeed, concerns about ethics in advertising largely stem from the assumption that that good ethics is good business or, as Davis (1994) put it, good ethics is good for business.

Still, ethical violations that pertain to the message abound, and they often result from various aspects of message portrayal; the language used, pictorial viewing, underlying hidden meanings, and connotations, of which can be classed into appeals, include fear appeals, sexuality and sexual appeals, and parody and humorous appeals; deceptive claims, which include irony, absurdity, and metonymy or the substitution of a products' attribute for some other meaning; and stereotyping, which can include exotic, sexist, or racist representations (Bryamjee et al., 2010).

Mathenge (2013) noted that advertising and marketing efforts in Kenya are short of some ethical and moral espouses, particularly because advertisers and communicators often find themselves tempted and pressured to set aside high artistic and moral standards and instead

lapse into superficiality, flamboyance, and moral squalor as they compete to attract larger audiences. Muriungi (2002) indicated that manipulation, which revolves around the use of motivational research or subliminal advertising, indirect emotional appeals, and the power of scientific advertising to persuade is just one of the ethical issues in the Kenyan context.

Other ethical issues include bad taste in advertising, such as can be seen in the use of eroticism and nudity to ‘sexual sell’ goods that have no relation whatsoever to sex, and advertising to children, which, is a particularly controversial issue given the evidence that some preschool children cannot understand the selling intent of commercials and are, therefore, unable to distinguish between fantasy and reality (Muriungi, 2002). On the issue of advertising to children, Bryamjee et al. (2010) added that ethical concerns arise when children are perceived as easy prey targets for marketing because children lack analytical and judgment abilities, have a rare experience of life, and, consequently, are vulnerable to stray influences.

Where women are concerned, Bryamjee et al., (2010) decried the fact that advertisement for women products redefines attractiveness from something natural to some unattainable ideal and that, worse, the objectification of women, treating them as things as opposed to autonomous rational beings, runs contrary to the spirit and intent of various laws on gender equality, while at the same time succeeding in eroding women’s self-esteem. Surprisingly, some studies have found that while young, educated women might feel affronted by advertisements that controversially use sex appeals, they still consume the products advertised, meaning that despite ethical discussions about the nature of female stereotyping, attitudes towards controversial advertisements by their target group may be changing over time to become less critical (Bryamjee et al., 2010).

The Code of Advertising Practice and Marketing in Kenya

Today's highly competitive business environment necessitates that advertising plays a vital role among the marketing functions of a business, particularly because it is a major driver in pushing a firm's integrated promotions that drive sales (Bryamjee et al., 2010). In the Kenyan context, the advertising industry through the initiative of the Marketing Society of Kenya (MSK) and the Association of Practitioners in Advertising (APA) has initiated a review process designed to lead to an adoption of a comprehensive and up-to-date advertising code of practice and guiding principles for the Kenyan market, and later for the entire East African market (MSK & APA, 2003).

The Kenyan Code of Advertising Practice covers aspects of advertising relating to the general rules in advertising practice that include moral issues in the market, all media and communication channels, and guiding principles and recommended complaints procedures. The code, which establishes an Advertising Standards Body for Kenya (ASBK) and which, in turn, has as principal organ the Advertising Standards Board (ASB), was conceived for industry self-regulation in the wake of significant changes in the communications environment and increased competitiveness in the market which has had the effect of sometimes blurring the moral judgment or otherwise of industry players (Marketing Society of Kenya & Association of Practitioners in Advertising, 2003).

Advertising practice in Kenya is also governed by various competition and intellectual property laws, as well as the Kenya Information and Communications (Consumer Protection) Regulations of 2010 which treat as one of the rights and obligations of consumers the protection from unfair trade practices including false and misleading advertising and anti-competitive behavior.

Nzomo (2013) explained that Kenya has a broad framework of national and international legal regulations that have a direct impact on advertisement practices such as comparative advertising. The Paris Convention and the Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement, which state that any act of competition that is contrary to honest practices in industrial or commercial matters constitutes acts of unfair competition, are examples. Importantly, Nzomo (2013) noted that Kenya's advertising is also regulated through common law and statute, with the Competition Act. For instance, being the principal legislation that governs false or misleading advertising, while section 6 of the Trade Descriptions Act is the common law of tort that speaks to injurious falsehood.

Advertising Influence on Consumer Rights

Commercial speech, which is the advertising of products or services through printed material, broadcast, or the Internet, was so defined to distinguish it from a political speech which deals with areas of social interest and is regulated to prevent fraud, illegal or harmful activity while ensuring consumers are protected from false and misleading advertisements (Schultz, 2017). Commercial speech includes commercial advertising, promises, and solicitations, and it protects both the right of the speaker to speak and that of the listener to receive information and while it does not lose its protection just because money is transacted through it, commercial speech can still be regulated if false or misleading (Schultz, 2017).

Mathenge (2013) pointed out that advertising can betray its role as a source of information by misrepresentation and the withholding of relevant facts especially in situations where only negligible differences among similar products of various brands exist. In such scenarios, advertising often attempts to persuade people to act based on irrational motives

such as brand loyalty, status, sex appeal, fashion, and so on, as opposed to presenting audiences with the differences in product quality and price as more acceptable bases for making rational choices (Mathenge, 2013).

Indeed, advertising often panders to such motives as envy, status-seeking, and lust, and in some jurisdictions such as the United States, even vice advertising, which relates to the promotion of products or activities that are legal albeit harmful to human health or morals, receives equal protections along with other forms of commercial speech (McNally, 2013).

The constant and intense competition among various enterprises through the use of advertisements, reveals the fact that advertising is believed to have certain effects on consumers and their preferences. In his study on the effect of advertisement on consumer brand preference among Nigerians, Daniel (2019) found that the use of already established value to maintain customers, the introduction of new and better quality products, and the use of innovative ideas and celebrities in advertisements all had a positive relationship on maintaining brand preference.

On a global scale, watching television has been recognized as the dominant pastime of youth throughout the industrialized world. As such, Yosifon (2006) noted that most of the \$12 billion deployed every year by corporations in promoting junk food to children is spent on television advertising, and with a good return on investment: estimates indicate that children in the United States alone watch between 20,000 and 40,000 television commercials each year, with the vast majority of these advertisements being for fast food, soft drinks, sugared cereal, and candy (Yosifon, 2006).

Research findings in this field conclude that television advertising contributes substantially to the heavy consumption of junk food found in children, thus fuelling childhood obesity in multiple ways; some of which include induced preferences for the consumption of junk food and the inducement of sedentary habits in children through the sponsoring of programming aimed at children (Yosifon, 2006).

Application of the Consumer Rights in Television Advertising

Advertising is recognized as a major source of income for media houses, and the situation is no less different in Kenya where some media houses such as KBC's Metro TV as well as QTV have closed business as a result of lack of advertisements. Misleading advertisements in the media are also seen as abuse or misuse of the protections that come with commercial speech, which is speech that is supposed to give truthful information about the utility and the appropriateness of the products that are advertised.

It is for these reasons that MSK and APA (2003) initiated a review process meant to lead to the adoption of a comprehensive and up-to-date Advertising Code of Practice and Guiding Principles for the Kenyan market which, among other things, defines the basic, general, and legal advertising principles that are to be used in advertising, with a scope that extends to commercial, non-commercial, political, and advocacy advertising. A procedural guideline for complaint and dispute resolution is also put forth by the code, as are provisions related to advertisements containing environmental-related claims and health-related claims, as well as the use of standardization and market research in advertising.

To ensure that the advertising code in the country is adhered to, the ASBK has in place its principal organ is the Advertising Standards Board (ASB) which ensures that the

established system of self-regulation works both efficiently and sufficiently and that no principal activities of the bodywork in any way against the public interest (MSK & APA, 2003). Indeed, as articles in local newspapers such as *The Business Daily* indicate, companies in Kenya will often be the very first to bring to the attention of the standards board competitors who they perceive to be disbursing inaccurate or misleading advertisements to the public (Marketing Society of Kenya & Association of Practitioners in Advertising, 2003).

Empirical Literature Review

Several studies have been carried out on media aesthetics and consumption in advertising communication. Meamber and Venkatesh (2014) examined the aesthetics of consumption and the consumer as the object of aesthetics. The study aimed at examining the integration of aesthetics in everyday consumption practices and patterns. Besides, the study also sought to introduce the concept of the consumer as an aesthetic object. The findings of the study revealed that the everyday life of the consumer has been aestheticized and the consumer has become an aesthetic object. The argument advanced by Meamber and Venkatesh (2014) is helpful in this study especially while answering the question on the application of the media aesthetics component in advertising communication. The paper has noted, as a recommendation for further studies, the blurring line between commerce and art, which begs the question of consumer rights.

Based on a study conducted by Tushnet (2010) on truth and advertising, the findings revealed that advertisements have the potential to be misleading owing to the interpretation of the First Amendment and The Lanham Act. She argues that the line between falsity and factuality becomes difficult to draw specifically to trademark infringement. Tushnet further

argues that sometimes the legislation for protecting consumer rights is hijacked by the introduction of phrases and elements that make the legal framework favor the producers of the consumables. In this regard, Muccheke (2019) argued that the meaning of words may impede consumers from getting truthful information because the meaning of words is debatable and depends on the listeners' interpretation. The same goes for the legislation, where there may be structural and lexical ambiguities that make it hard for the litigation of misleading and false advertisements.

In a study carried out by Petrovici (2016) on the role of aesthetic communication in advertising, he brought out the context of particularities of aesthetic communication in advertisements and raises critical aesthetic categories that are specific to advertising imagery. The findings of his study show that there are certain principles applied in the application of aesthetic elements in advertisements. This study is significant in showing how the field of aesthetics is important. Specifically, he notes that aesthetic elements are important in optimizing the reception and performance of the message. Further, he argues that when aesthetic elements are correctly applied in visual communication and advertising imagery, they can refine and expand the aesthetic taste for product differentiation. This study does not raise the concept of the interaction of the application of aesthetic elements and consumer rights, which was the main aim of this study.

Simonson and Schmitt (1997) argued that the emphasis for the consumer supplier relationship is on the aesthetic appeal of the product, where media aesthetic elements are given more prominence to make sales than the need of the consumer. The patronage of products then is based on the sensory appeal from an art perspective. On the consumer's side, consumption is based on hedonism, experiential and symbolic elements of a product.

Studies have shown how individuals collect past meanings and envision future meaning and assemble present cultural constructs to determine consumption behaviors. The cultural constructs include family, gender, age, religion, and among others. It is worth noting that these cultural constructs, being components of media aesthetics, have been used extensively in television advertising communication to influence brand differentiation and patronage. The significance of this study is that consumer's decoding of aesthetic value is based on the cultural contexts which suppliers focus on when making the aesthetic appeal. Again, the question of violation of consumer rights does not come out strongly in the study.

In their study to establish the relationship between advertising and consumer brand preference for the mobile phone services in Kenya, Onyango, Bwisa, and Odhiambo (2017) found that there was a positive and moderate relationship between advertising and brand preference, meaning that an increase in positive perception towards a phone service increased consumer brand preference for the advertised service. Results from the study by Onyango et al., (2017) revealed that when consumers attended to and processed the advertising message put across to them, they formed in their minds favorable ad-execution thoughts, and this consequently meant that the attitudes they formed towards the advertised brand became favorable – proving that service advertising had a persuasive and transformative effect.

One of the most recent research encountered in the field of media aesthetics is by Mucheke (2019). He undertook an analysis of factuality and truthfulness on Commercial Speech rights specifically targeting radio stations. His interest is with the announcers, live advertising, Disc Jockeys and celebrities use in endorsing products, which they are not consumers. He has narrowed it down to advertisements done live on radio stations within

Nairobi. Live advertisements imply that they are not scripted, the announcer has a leeway of taking the conversation in whatever direction he wishes provided the listeners are convinced. His study is on the radio though this one is on television advertisements. The engagement in the advertisements, for this study, narrows down to what has been understood as prime time. This study went beyond what Mucheke (2019) has raised (aesthetics of sound) to include all elements of aesthetics as raised by Zettl (1998) on level one.

Conceptual Framework

A conceptual framework is used to show the relevant variables and how they are expected to relate to the research. It also outlines what is expected to be found in the process of gathering and analyzing data.

The independent variables for this study included media aesthetic elements which were analyzed by considering various aesthetic elements which included lighting, sound, color, and motion. These elements were analyzed in line with their role of intensification, clarification, and interpretation of experience, and how this is applied in advertising communication with regard to integrating art and experience. In addition, the advertisements selected for this study were reviewed for their adherence to the various codes of advertising and its standards as the one raised in Article 46 of the 2010 Kenya constitution, advertising codes and the Competition Act, 2012. The role of the Consumer Federation of Kenya (COFEK) was analyzed with regard to championing for consumer rights.

The dependent variable was consumer rights in television advertising in Kenya. This was analyzed based on the media literacy model. The Model proposes four hierarchical levels, which Zettl (2007) argues it is the basis for media literacy.

A model consisting of both independent and dependent variables was developed as presented in Figure 2.2.

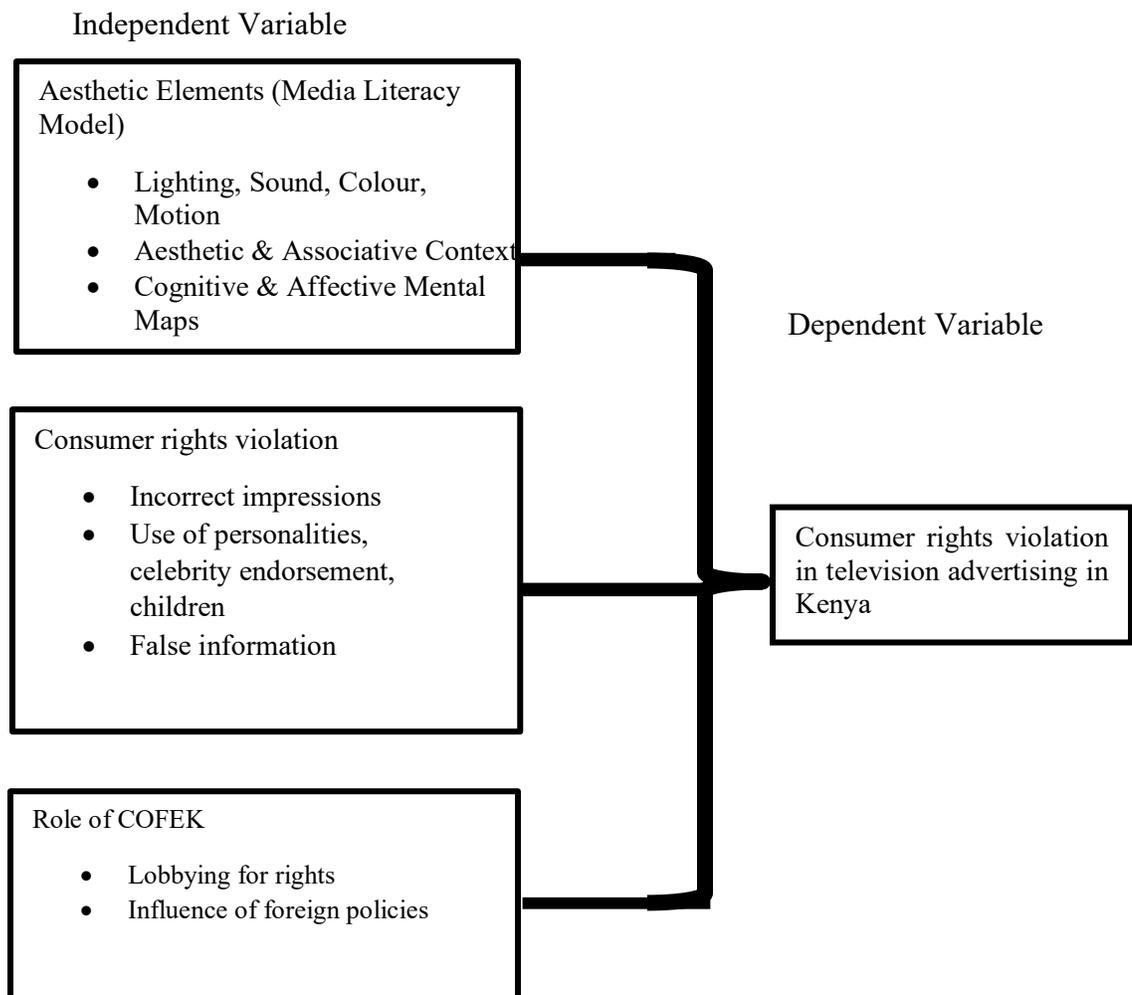


Figure 2.2: Conceptual Framework
Source: Author (2021)

Summary

This chapter has presented the theoretical framework, general literature, empirical literature, and the conceptual framework. The theoretical review, focusing on the media aesthetic theory and the media literacy model, helps with an appreciation of how media aesthetics and advertising communication in television is important as an avenue for the sale of goods and services. Further, the power of the television in affecting people's preferences coupled with its commercial interests which may override audience interests.

The general literature helped appreciate media and television offer a platform for advertisements while the empirical literature provided insights about other studies done in other contexts concerning the use of advertisements in televisions. The conceptual framework is a diagrammatic expression showing the relationship between the variables.

The next chapter discusses the research methodology.

CHAPTER THREE

RESEARCH METHODOLOGY

Introduction

The chapter focuses on the research methods that were applied in this research. It includes the research design, the research site, population, target population, sample size and sampling techniques, data collection instruments, types of data and data collection procedures.

Research Design

According to De Vaus (2009), a research design is the comprehensive strategy that is essential in integrating the variables in any research to ensure that they flow coherently and logically. The outcome of this is to ensure that the research problem and objectives are addressed. Additionally, this encompasses the roadmap for collecting, measurement and analysis of data.

This study utilized the exploratory research design. Burns and Groove (2001) argued that an exploratory research design helps gain new insights, discover new ideas, which are important for increasing knowledge of the phenomenon. This research design was considered appropriate for this study since it helped the researcher gain insights by answering the motivation application of media aesthetic elements and violation of consumer rights in television advertising. This design also came in handy, especially, given that there is not sufficient research on aesthetics. Scholars argue that exploratory research design is also appropriate when enough is not known about the research problem and is not necessarily geared to giving final conclusive answers to the research question but gives a

perspective and depth to research (Creswell, 2014). The exploratory research design facilitated the creation of awareness of the concept of media aesthetics and its application in advertisements, the elements applied in different clusters of advertisements ranging from property to detergents and food items. Further, this design enabled the gathering and sharing of more information on this study.

The study collected data on the advertisements through conducting a Focus Group Discussion. The data helped gain insights on the application of media aesthetics and consumer rights. In addition, the secondary data analyzed on COFEK's role in advocating for consumer rights gave an overview on the consumer rights protection landscape in Kenya.

Further, this study took a purely qualitative approach in data analysis. Scholars argue that a qualitative design is best when a researcher is interested in gaining underlying reasons, opinions, and motivations for the phenomenon under investigation (Bradshaw, Atkinson, & Doody, 2017). In this regard, the study focused on select television advertisements that invite the consumer to make a purchase decision. The consumers were also engaged in FGDs. Secondary data analysis on consumer rights advocacy by COFEK was also conducted.

Population

This study purposively selected advertisements on YouTube. The advertisements were chosen on the criteria that they suggested a commercial transaction and were also airing in leading media houses that host television stations during prime time. The prime time for television viewing, in Kenya, is understood as the time between the hours of 6 pm and 10

pm. These media houses were Royal Media Services, Standard Media Group, Nation Media Group, and MediaMax Network Limited are leading in terms of audiences that they attract (Geopoll, 2019). The study also sought to gain insights from consumers who are media literate. Thus, FGD was conducted to gain insights on violation of consumer rights. COFEK formed part of the population. The federation has attempted at legislating consumer rights in addition to anchoring their mandate to the Consumer Protection Act (2012).

Target Population

The target population denotes the specific group to be studied within a population (Mugenda, 2019). Specifically, this study targeted advertisements falling under the categories of detergents, real estate (land and houses), household items, children's products and holiday and travel uploaded on YouTube. These advertisements were purposively selected from YouTube and the selected leading Television stations. Besides, since the study was on consumer rights, the advertisements selected were commercial in nature.

The study also targeted media literate consumers as part of the population. Owing to the intricate nature of the study, the consumers forming the FGD required to have taken postgraduate training in media. Daystar University was chosen because of a mandatory course on Mass Media Languages, Formats, Aesthetics and Criticism (COM 675) taught to students specializing in media.

Secondary data was collected from the COFEK. Notably, the COFEK was selected because it draws its mandate from the Consumer Protection Act (2012) and is the only body that is express on its role in consumer protection. The secondary data that included petitions in

High Court in Kenya where the COFEK is the main complainant and information on the COFEK website were analyzed. These petitions have been filed by The National Council for Law Reporting. This is a semiautonomous state corporation with a mandate to monitor and report on the development of Kenya's jurisprudence through the publication of the Kenya Law Reports. (Kenya Law, 2015).

Sample Size

The study's focus was on the application of media aesthetic elements in advertising communication for select advertisements on YouTube. The sample considered selected television stations in Kenya. Since advertisements are about the number of people who can be influenced by the advertising message, the study focused on the advertisements that have also featured in the four leading media houses (Geopoll, 2019).

The advertisements were primarily accessed through YouTube. Other advertisements that do not include commercial aspects were excluded from this study. The advertisements were in the categories of telecommunications, detergents and cleaning, food products, real estate, holiday home providers, schools, and insurance. The advertisements purposively selected for this study were five categories, an advert per category as a representative of the aesthetic elements. Table 3.1 presents the sampled advertisements in the categories.

Table 3.1: Categories of Advertisements

Categories	Sector	Category	Total Sample Size
Advertisements	Detergents and Cleaning	Aerial, Persil, Downy, Omo, Harpic, Hurricane, Sunlight, Jik, Dettol	5
	Real Estates	Optiven, Username, Cytonn, Safaricom Investment Cooperative, Hass Consult, Villa Care, Suraya Property Group, Gakuyo	
	Household use (Cooking Oils)	Fresh fri, Pika, Avena, Rina and Salit	
	Holiday	Chaka ranch, Sarova Whitesands, Ole Sereni, Kempinski, Hilton Hotel, Enashipai, DusitD2,	
Consumer Perspective	Children products	Molfix advert, Softcare, huggies, Vaseline, Kisskids, Valon, Pampers, Nip nap	
Consumer Rights Lobby Group	Consumers with media background	A Focus Group of 8-12 participants	8 participants
	Consumer Federation of Kenya	Secondary data analysis of COFEK website and e-Kenya Law Review	

The advertisements were selected on the basis that they must suggest a commercial transaction which means that the advertisement must invite the consumer to make a purchase decision. Secondly, from the legislation laws put in place to guard consumer protection, the advertisements selected had been perceived to apply the aesthetic and associative context to create an illusion that anyone not media literate is not able to understand. Advertisements that suggest a commercial transaction are at more risk of exaggeration of product qualities since the firm or producer is interested in driving the sales agenda and finishing their stock (Dyer, 1982).

The FGD included eight consumers with a background in communication, with a specialization in media, at the postgraduate level from Daystar University. Further, the

study targeted the COFEK for secondary data analysis. The COFEK is “Kenya’s independent, self-funded, multi-sectorial, non-political and apex non-profit Federation committed to consumer protection, education, research, consultancy, litigation, anti-counterfeits campaign and business rating on consumerism and customer-care issues” (COFEK, 2021). It is important to note that COFEK is the founder Chair the Kenya Consumer Protection Advisory Committee (KECOPAC) and their mandate cuts across the various legislations for consumer protection such as Article 46 of the Constitution, the Consumer Protection Act 2012, and the Competition Act.

Sampling Techniques

This study used purposive sampling as the sampling procedure. Purposive sampling (also known as judgment, selective or subjective sampling) is a sampling technique in which the researcher relies on his or her judgment when choosing members of the population to participate in the study. Here, the principle applied is the researcher’s judgment as to typicality and interest (Robson, 2011).

Purposive sampling was utilized to narrow down to the specific advertisements as raised in Table 3.1. These advertisements were analyzed to bring out the aesthetic elements as has been discussed in the Media Literacy Model by Zettl (1998). This is because the specific focus of this study was the application of aesthetic elements components in television advertising and the violation of consumer rights. The advertisements selected suggest a commercial transaction between the consumer and the supplier. Purposive sampling was also used to select the participants in the FGDs and the secondary data on the Consumer Federation of Kenya (COFEK). Data Collection Instruments

The study used textual analysis to collect data from the advertisements and secondary data from COFEK and Kenya Law Review (KLR). Textual analysis is used by communication researchers to interpret the characteristics of a recorded or a visual message (Frey & Kreps, 1999). In addition, an FGD guide was used to conduct the FGDs.

Types of Data

Primary and secondary data were utilized for this study. Primary data was gathered through textual analysis of advertisements and a Focus Group Discussion with consumers with a background in communication and media. Secondary data was gathered from the YouTube platform. On the role of COFEK, the study analyzed secondary data on the petitions that the consumer federation had presented before the High Court as well as available literature on their success in legislating consumer-related issues.

The data was analyzed for the application of media aesthetics elements in the advertising communication, application of consumer rights and ways in which consumer rights are violated.

Data Collection Procedures

The triangulation approach was adopted for data collection. A triangulation approach utilizes various datasets in explaining different phenomena (Heale & Noble, 2019).

A letter of approval to collect data was sought from Daystar University's Media & Film Studies department. This was later followed by an approval to the Ethical Review Board (ERB) and a research permit from the National Commission for Science, Technology, and Innovation (NACOSTI). The researcher proceeded to do the analysis for the media aesthetic component using the Media Literacy Model for all the five advertisements.

Secondly, an FGD with eight consumers with a background in media was conducted. These respondents fell in the category of core target of advertisers, despite being media professionals. Owing to the current restrictions on physical gathering, the Zoom video conferencing app was used. Zoom has been selected because of the ease in navigating, the app is compatible on both desktop and mobile phone and was economical in its bandwidth. The Zoom platform is a user-friendly platform that avails the recording of the session at the end of a meeting. The recording is in form of video and audio. Consent sought to allow for recording the conversations during FGD. At the end of the session, the audio recording was transcribed to text by the use of an online platform, *temi.com*, that allows transcription for audio. It is notable that the data collection phase was sequential. Firstly, textual analysis of the media aesthetics elements was done followed by the FGD and finally the secondary data analysis of the available literature on the COFEK as summarized in Table 3.2.

Table 3.2: Code Sheet

Objective	Elements	Unit of Analysis	Measure
Media aesthetics elements	<ul style="list-style-type: none"> ● Light ● Sound ● Motion ● Color 	Media Literacy Model	Analyse the select advertisements with regard to the application of the elements
Violation of consumer rights	<ul style="list-style-type: none"> ● Use of celebrity endorsement, children ● Inaccurate representation through illusion and associative context and adherence to the advertising codes in Kenya ● In-depth interviews with regulatory authorities 	Focus Group Discussions	Intensification of aesthetic elements integrated with violation of consumer rights

Level of application of consumer rights	<ul style="list-style-type: none"> Consumer Federation of Kenya 	Secondary data analysis	Adherence to advertising codes by checking them against fairness, correct information on the product and protection of consumers' economic interests
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Pretesting

Pretesting is the process of trying out the data collection instruments before they are used to collect the data for the study. The importance of this is to ensure that all research questions will be answered by the information to be gathered. The FGD guide was shared with a group of film professionals currently involved in the production and directing of advertisements. The feedback helped in refining of the tool. The questions were reviewed, and ambiguous questions clarified.

Data Analysis Plan

Creswell (2014) defined a qualitative study as “an inquiry process of understanding a social or human problem, based on building a complex, holistic picture, formed with words, reporting detailed views of informants, and conducted in a natural setting.” (p. 179). The qualitative data gathered from analysis of the advertisements was analyzed thematically using identification, examination, and interpretation of patterns and themes to assess the application of media aesthetics in all the advertisements selected for this study.

The FGD was recorded in Zoom and later uploaded in *temi.com*. The platform transcribed the audio recording to a word document. The document was uploaded to NVivo version 12 for analysis. This helped to structure the data to identify patterns and themes. Moreover,

the data were categorized into themes followed by relating the various thematic issues. Finally, the data was interpreted to provide meaning.

Ethical Considerations

The study observed the ethical concerns by looking at the following issues:

Informed consent: This is a vital step to any research. It is the process in which a participant consent to participate in a research project after being informed of its procedures, risks, and benefits (Bulger, Heitman and Resier, 2002). Ideally, after fully comprehending the information about the research, the participant gives full and conscious consent to take part in the study. In this study, the participants were informed about the intention of the study and for what purpose the data from the research would be used. Participation in the research was voluntary and anyone was free to withdraw from the research at any point. Some participants, even though they met the conditions for participating in this research, chose not to participate (Bulger, et.al, 2002).

Anonymity and confidentiality: Anonymity refers to keeping secret by not identifying the ethnic or cultural background of respondents, refrain from referring to them by their names, or divulging any other sensitive information about a participant (Mugenda, 2009). This enhances honesty to the research subject by protecting them from physical and psychological harm thereby ensuring that the researcher does not ask embarrassing questions which can disguise or even shock the respondent. In this study, the respondents' names were not used during the FGD. The participants' comments were coded according to an arbitrary number and the point at which they spoke. Further, the information was coded according to the various sections of people interviewed

Research authorization: Any research done in Kenya within the public sector must be approved by the Ministry of Education through the National Council for Science, Technology, and Innovation (NACOSTI). The researcher obtained a research permit from NACOSTI office by completing the appropriate application form online at this web address oris.nacosti.go.ke; then followed the instructions. This was after clearance with the Daystar Ethical Review Board.

Summary

This chapter has covered the research methodology specific to the study. Various subsets of the methodology covered include the research design, population, target population, sample size, sampling techniques, data collection instruments, types of data, and ethical considerations.

CHAPTER FOUR

DATA PRESENTATION, ANALYSIS, AND INTERPRETATION

Introduction

This study sought to analyze the application of various media aesthetics elements in television advertising, to determine the application of various consumer protection regulations, to unearth how consumer rights are violated in advertising communication in Kenyan media. After analysis of the available literature in the field of media aesthetics and advertising communication, data was then collected through a mixed methodology to allow for triangulation.

First, the researcher purposively selected five advertisements and used the textual analysis approach following Zettl's (1998) media literacy model as in the literature review and conceptual framework. Secondly, an FGD comprising of eight members was conducted. The research also analyzed secondary data on the consumer regulatory body, the COFEK to specifically evaluate their role in championing consumer rights in the country. This chapter presents the data, the analysis and interpretation in line with the objectives.

Analysis and Interpretation

Response Rate

Thematic textual analysis was used for the advertisements in line with the media literacy model and FGD. The sample size was for five advertisements purposively selected; these advertisements suggested a commercial transaction, where the viewer is invited to make a purchase decision on watching the advert. The FGD targeted between 8-12 respondents,

however eight turned up for the virtual discussion; the rest of the participants could not turn up owing to their schedules. Secondary data analysis on the role of the COFEK regarding lobbying for consumer rights in Kenya.

An Overview of the Advertisements

Aerial

‘Ariel with a fresh touch of downy detergent’ is a European brand owned by Proctor and Gamble. The detergent was launched for market use in the late 1960s (Proctor & Gamble, n.d.). Though originally from Europe, the brand has permeated various parts of the globe including Africa. The selling point of the detergent is its stain-removing enzyme characteristics that the producers have used to create a distinction from other detergents. This element is evident in all the advertisements that *Ariel* has run in Kenya, including the most recent one that features Johnty Fresh, a Kenyan celebrity featuring in a local soap, *Maria*. This is not the first-time *Aerial* has done this since in 2005, for the UK market, the detergent made use of a tennis star Tim Henman and a tennis rookie Daniel Stuart (Proctor & Gamble, n.d).

Johnty Fresh, an expert in transforming the smelly secondhand clothes into the freshest brand in *Gikomba* market, appears to take an authoritative posture as the go to person. He is seen carrying bales of clothes, opening one of them and washing it. The transformation of the dress is evident after the “perfect” wash. The aim of the advert is to show a reliable detergent that cleans in an instant.

At the time of analyses, this advert had attracted 1.9 million views as shown the screenshot a Youtube presented in Figure 4.1.

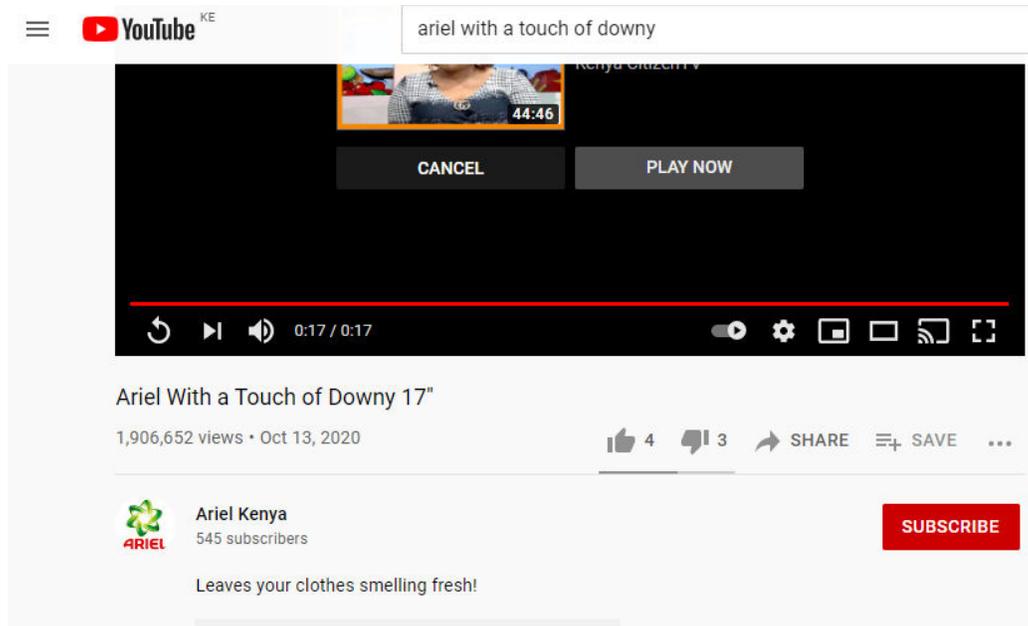


Figure 4.1: Ariel Advert Views, Source YouTube.
Source: YouTube

Fresh Fri

This is a locally manufactured product that prides itself in a non-drip top useful for measuring the amount of oil to be poured, a viewing strip to monitor consumption and cholesterol free (Pwani Oil, n.d.); the product is by Pwani Oil Refineries Limited.

The setting is in a posh homestead of a middle-class young couple whose romance is enhanced by the use of this cooking oil. On noticing the man, the woman picks some groceries to prepare the man a delicious meal. The groceries are prepared in quick succession. When the meal is ready, the husband removes the necktie, ready to eat. The setting quickly changes to the beach with the background music words “*I wanna stay here with you*” ending the scene.

Notably at the time of this analysis, the fresh fri advert had gathered 33,699 as depicted in Figure 4.2.

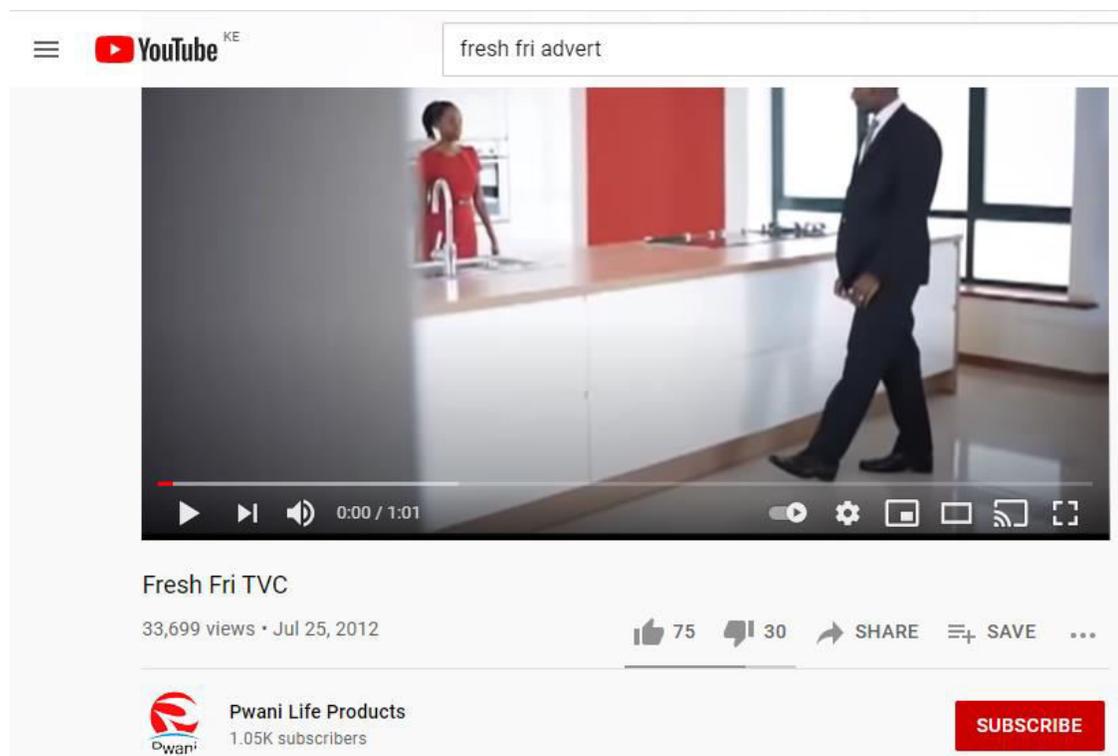


Figure 4.2: Fresh Fri Views on YouTube

Molfix Baby Pants

Molfix baby pants diapers were launched in the Kenyan market on March 3, 2019, by a global Fast Moving Consumer Goods (FMCG) originally from Turkey (Anyango, 2019). This also symbolized the official operationalization of Hayat Kimya, the company behind Molfix, in Kenya. This company is ranked 5th largest baby diaper manufacturer. During the launch, the proprietor noted that at least one in three babies would be using Molfix in Kenya (Wambui, 2019). This would explain the intense marketing campaign where the company

injected about 600 million shillings in the launch and operations of molfix in the country (Anyango, 2019).

The event also unveiled Ms Terryanne Chebet as the brand ambassador. Terryanne is a renown media personality, having been on the airwaves in the leading Kenyan broadcasters before she started Fanaka TV where she is the Chief Executive Officer (Wambui, 2019).

Molfix features children in a Research and Development (R&D) department presumably analysing what they consider most appropriate for them. The opening statement by Terryanne Chebet inviting people to watch '*breaking news*' for the children and the presence of a woman in the R&D department catches the eye of the audience as depicted in Figure 4.3. The advert also features a children song that would attract any child to watch the advert and ask that the parent to buy into the '*you should also try molfix.*'

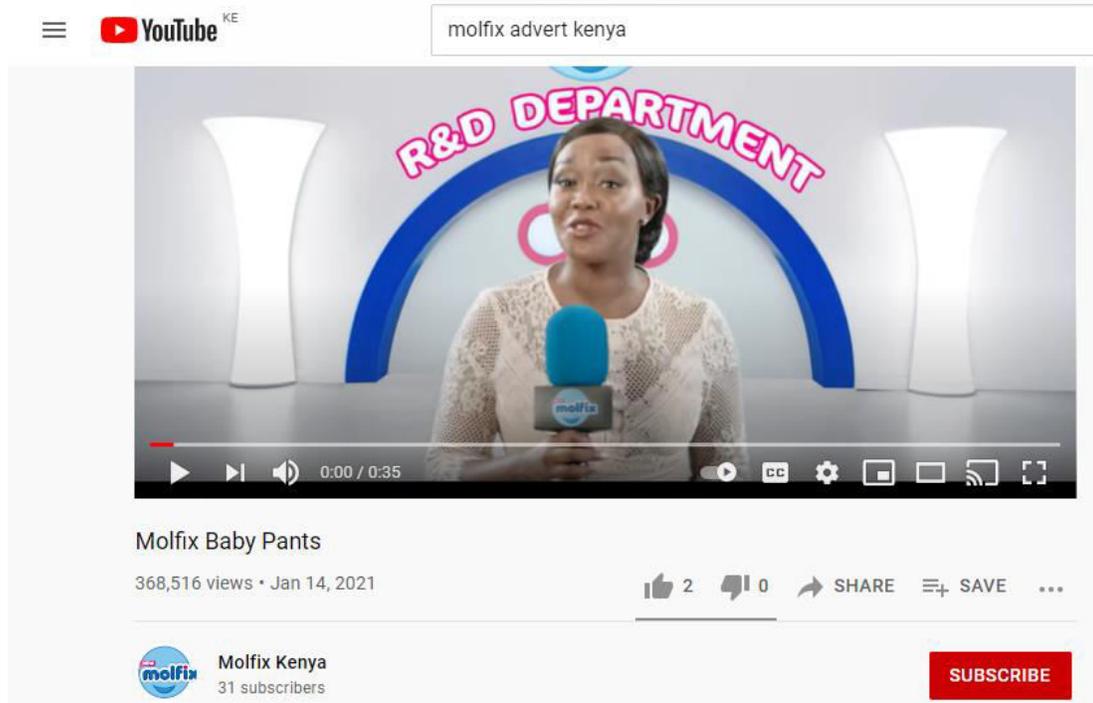


Figure 2.3: Molfix Views on YouTube
Source: YouTube

Bega Kwa Bega with Optiven Real Estate

This advert is produced at a moment when the entire globe is facing Covid-19 pandemic. Among the many institutions that were hard hit, banking would take the lead because of loan performance, people not taking loans, lower end year bonuses and reduced dividends to the shareholders (Anyanzwa, 2020).

The advert features the managing director for Optiven Real Estates, Mr. George Wachiuri, who has been a beneficiary of the Equity Bank's loans. He says how the bank has supported him through loan restructuring and moratorium despite the shock that has been occasioned by Covid 19. The setting is one of the offices owned by Optiven as well as one of the projects that the realtor is currently running.

Equity bank decided to shoot this advert, among many others, with businesses to show how they partner with their clients through all seasons and reasons. This was effected through restructuring the existing loan facilities and giving loan holidays so that investors can keep borrowing in the low season. The advert, uploaded in November 2020, has attracted 74,000 views, as shown in Figure 4.4.

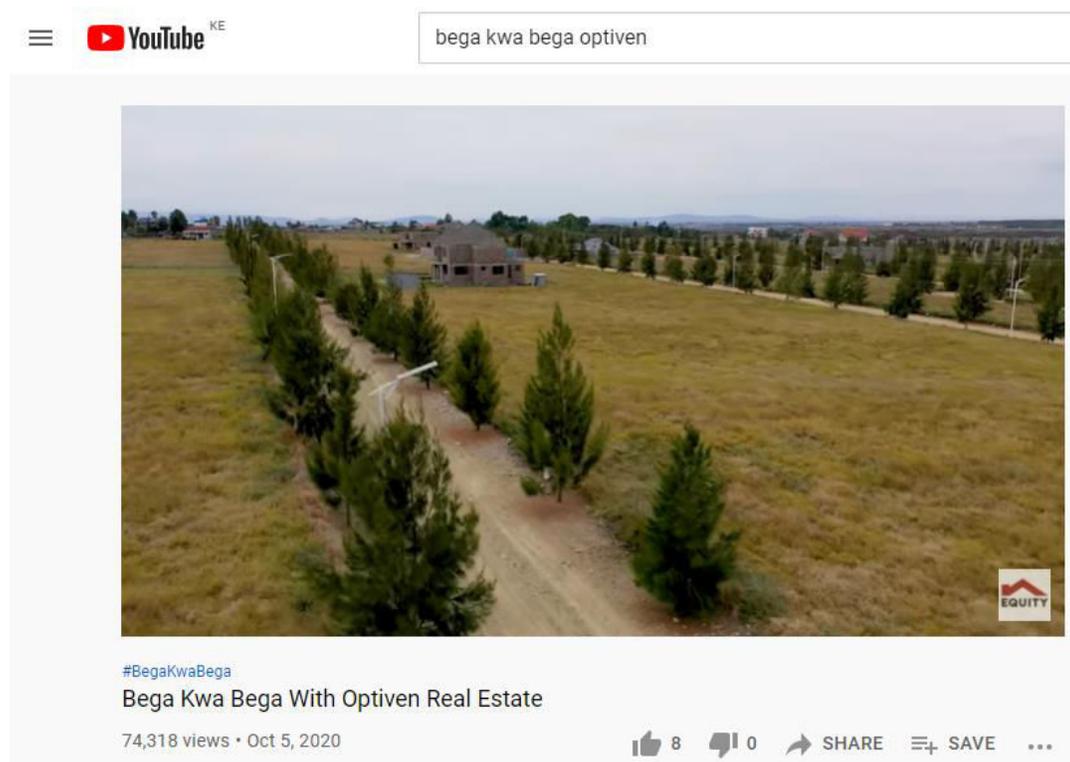


Figure 4.4: Optiven/Equity Views on YouTube
Source: YouTube

Chaka Ranch

Chaka ranch prides itself as a one stop leisure park for the entertainment needs of a family. The hotel is strategically set between the Mt. Kenya and the Aberdare Mountain range

making it an easy attraction for tourists. The quad bikes are an attraction to children and family in general.

The advert features a husband and wife taking selfies on arrival to a preferred destination. The viewers are then introduced to a family of a husband, wife and two kids taking a walk in the field. Later a few more members join, children in quad bikes, accommodation facilities and other facilities in the hotel. The video shows that they have 30% discount for all bookings. The advert, by the time of this analysis, had 5,063 views, as presented in Figure 4.5.



Figure 4.5: Chaka Ranch Views

Source: YouTube

Media Aesthetic Elements in Television Advertising

The media literacy model as proposed by Zettl (1998) was utilized in the analysis of media aesthetics elements. The building blocks of this model attempts to show the hierarchical relationship between of the four levels: (i) what screen images are made of (basic image aesthetic elements), (ii) how they are structured (iii) our perception toward them and how that affects us and how they fit in the various intellectual and cultural frameworks for media analysis.

Contextual media aesthetics are concerned with light and color, two and three-dimensional space, space, and time as well as sound. These are the basic image elements that are used as basic building blocks for media aesthetics (Zettl, 2017). According to Zettl, this level is foundational to any form of analysis since the true effect of the message is conceptualized at this stage.

Lighting, in the television space, has been argued as the “deliberate manipulation of light and shadows for a specific communication purpose.” (Zettl, 2017 p. 3). Lighting, in aesthetics, is appreciated in terms of nature, purposes and functions, nature of shadows and functions of the inner and outer orientation of lighting (Zettl, 2017). Further, Zettl (2017) argued that “When we focus on the aesthetic of light, we also view it together with color since the various colors are interpreted as a combination of light waves” (Zettl, 2017, p.3).

The New Ariel Touch of Downy Advert

Level 1: Structuring of the advert

The opening shot of the New Ariel Touch of Downy advert is a close-up of a shiny green Ariel logo with glowing edges set on a pink flower background. The lighting employed in

this shot here, along with some blurring of the flowers in the background serves to draw attention to the logo, and signals to the aware consumer that it is an Ariel product that is coming up.

The succeeding shot portrays a visible light, presumably the sun rising on top of buildings in a busy city, indicating the morning rush in an environment where trade happens early in the morning. We are then introduced to Johnty fresh, an expert in transforming ordinary second-hand clothes. Conspicuously, he is in pink in line with the background of the pink flowers in the Ariel logo. He has a blue coat in line with the 'touch of downy' whose primary color here is turquoise blue. The pink flowers have a yellow receptacle, which is the color of his trouser. These three colors that differentiate the Ariel brand form the basis of the color selection across the advert. First, the clothes chosen to form the background as Johnty moves around the market are predominantly pink shades, blue and yellow. Secondly, the clothes people who are focused by the images are same colors. There are some green colors though they are scattered. The basin used to wash the clothes is pink, and the yellow *tuk tuk*¹ in the advert.

Of interest to note is the flowery pink dress that Johnty fresh picks from the bale of the *mtumba*² clothes. The dress looks pale and dirty but gets transformed when washed in the

¹ A simple vehicle with an engine and three wheels, often used as a taxi in some parts of the world (Cambridge dictionary, n.d.)

² (in eastern and central Africa) second-hand clothing, especially that donated by aid agencies in the West (Mitumba, n.d.).

new area with a touch of downy. The pink flowers ‘escape’ the dress majestically as an illustration of freshness.

Johnty Fresh identifies himself as the go-to personality in the retail clothing business in the whole of *Gikomba* Market or *Gikosh*, as he calls it. With his authority established, Johnnty quickly takes us through a day in his life. He specifically demonstrates how he transforms ordinary, second-hand “*mtush*” clothes that come with a certain unlikely scent. The result of arriving in a bale consignment, into the cleanest, freshest smelling clothes in the entire ‘*Gikosh*.’ The secret, Johnnty confides in us, is the new pink Ariel washing powder.

In using the media literacy model to analyze this advertisement, we determine the contextual aesthetic and associative elements used in this advert by looking at how lighting, sound, motion, and color have been used, as well as the various cognitive and affective mental maps that derive from it.

Level 2: The Power of Context

When we get introduced to Johnnty Fresh a whistle is heard in the background and some music with a fast tempo, which is in line with the *ghetto*³ setting that the advert is shot in. The advertisement communicates that life in Gikosh is as fast-moving as are, presumably, the clothes that Johnnty sells. This perception is reinforced by the fast music, the ‘*whoosh*’ sounds accompanying certain cuts from one scene to the next, the accelerated motion used to show the *tuktuk* dashing down a crowded street, and the rush that a panting Johnnty uses

³ A quarter of a city in which members of a minority group live especially because of social, legal, or economic pressure (Merriam-Webster Dictionary, n.d.)

to ferry his bale of *mtush* clothes to his market spot. Johnty himself is cast in flattering light, and he appears in a bright blue blazer that makes him stand out from the rest of the talent in the advert.

So, how does Johnty Fresh maintain his rank as the top *mtush* seller in *Gikosh*? With a brilliant and dazzling smile, a Johnty clad in bright colors eagerly informs us that the secret is “... *hii Ariel mpya ya pink*” (this new pink Aerial) as he holds up the New Ariel Touch of Downy washing powder in his hand and gives it a tilt. A close-up shot of the product follows before a demonstration of the washing powder in use comes up. It is when Johnty is cleaning the *mtush* clothes he intends to sell that we see the pink and purple flowers emanating from the washing powder itself, the clothes he is handwashing, and the dress he holds up for us to see the amazing results we can get when we use the new Ariel washing powder. These flowers, which are not actually to be found in the washing powder that the consumer will buy from his or her local shop, are part of the advert’s associative context because they are meant to be associated with the dainty and colorful outcome of using the new Ariel product in the viewer’s mind. Together with the fast-paced music that, in concert with the relatively quick handwashing process depicted in the advert, they might seem obvious, but they may not necessarily be easily recognized by the viewer as playing a central role in suggesting the superiority of Ariel’s new washing powder.

Level 3: Our Perception: Cognitive & Mental Maps

In terms of cognitive and affective mental maps, the positions and relationships in the New Ariel Touch of Downy advert make sense through the scenes. When Johnty tells us that he is the best *mtush* retailer in *Gikosh*, he lifts a dress fresh off a bale to demonstrate a sample of the kind of dresses he retails. This is the same dress that we see him cleaning, and it is

the same one he holds up whose freshness, personified by the flowers it emanates, attracts a whole lot of potential customers to the stock he is selling.

We draw from this sequence of events the intended message that Ariel transforms ordinary looking clothes to fast-moving merchandise. If even *mtush* sellers, authorities in their own right, have discovered that the secret to looking good is Ariel, who is the consumer to question its superiority? Table 4.1 presents an analysis of the Aerial advert.

Table 4.1: Analysis of Aerial Advert

Structuring of the Advert	The Power of Context (Aesthetic Associative)	Context &	Our perception towards them [On screen & off Screen Cognitive & Mental Maps]	Intellectual & Cultural Framework
Light and color, two and three-dimensional space, space and time as well as sound	Different shots for Johnty Fresh, with a tempo	shots for	Arrival of Johnty fresh in the establishing shot	Morning rush, state of <i>mtumba</i> (Second hand) clothing, consistency in the choice of colors

Fresh Fri

Level 1: Structuring of the Advert

Regarding lighting and color, the primary colors used in this advertisement are white, black and red. These are seen in the opening shot as the man, dressed in a black suit and a white shirt enters a kitchen whose main color on the walls is white with a touch of red. The lady is dressed in red, complemented by a red lipstick. The window frames are black in color.

The man is dressed in black and white. The producers use colors here for congruence throughout the advert.

Level 2: The Power of Context

With an opening scene set in the kitchen of a luxurious apartment, the Fresh Fri advert manages to communicate opulence, passion, and desire, and not necessarily for the vegetable oil alone. The opening scene depicts a crisply dressed couple: the man in a sharp suit and the woman in a conspicuous red dress, who proceed to eye each other hungrily and sensually as they walk towards one another. After the lady holds up the cholesterol-free Fresh Fri cooking oil, she suggestively bites her lower lip, and the man goes on to scan her from the bottom up before removing his coat. As this is happening, a gas burner is lit, and some cooking oil poured onto a pan in a sequence of events that indicates that it is not just the cooking oil that is getting heated up. Indeed, a steady, pulsating beat with romantic overtones accompanies the video as ingredients are prepared and fried, and a woman's moan, followed by a chuckle, can be heard around the advert's 26-second marker.

Level 3: Our Perceptions: Cognitive & Mental Maps

The reality that this advertisement is highly sexualized is not in doubt. It can be seen in the manner in which the talent looks suggestively at one another, the way the lady caresses the 'curve' of the cooking oil's container, how she rubs her leg up the man at the dinner table, or even the way the final shot is done, with the lady lying on the man's bare chest at the beach. In terms of aesthetics, this advertisement excels at using bright and highly saturated colors which, when combined with the elements of airy space in the kitchen and open-air at the beach, help paint a picture of wealth and luxury. The message is that the rich and

attractive, or sexy people in life, so to speak, use Fresh Fri to bring out life's flavor in their cooking endeavors.

Various close-ups of the advertisement's talent staring into each other, biting their lips suggestively, or even sensuously crunching their food are intended to create a subconscious association to desire, taste, and flavor even though the audience might not be aware that this is the goal. The music employed in the advert, along with the passionate sounds in the background, provides associative context by helping set the romantic tone.

Given that the models used in this advertisement are physically attractive and show evidence of having had make up applied, as well as the fact that there are romance and loads of sensuality in the air, we can infer that the primary target demographic comprises young women. The entire advert almost reads like a script for a successful seduction: the man walks into the kitchen where the woman, all smiles, walks towards him. She cooks a tantalizing meal in a sequence of shots that is accompanied by a lot of suggestive hints and, at some point, even douses both herself and him in cooking oil before the scene magically shifts from the kitchen to the beach where the now bare-chested man and the shoe-less lady with her hair shaken loose from its restrictive band embrace and then sit to dine. A rich array of fine dishes is shown as smooth, gentle music tells us "*I wanna stay here with you*" moments before the couple shortly retires to the beach, with the woman lying on the man. It is at this point that we are shown the Fresh Fri vegetable cooking oil, set on a table on the foreground with an onion, tomato, capsicum, and garlic, among other vegetables, along with the "*Welcome to Pwani life* logo", as summarized in Figure 4.2.

Table 3.2: Analysis of Fresh Fri Advert

Structuring of the Advert	The Power of Context (Aesthetic & Associative)	Our perception towards them [On screen & off Screen Cognitive & Mental Maps]	Intellectual & Cultural Framework
Light and color, two and three-dimensional space, space and time as well as sound	The beats in the background, chuckle, the make-up, transition of shots	Transition to the beach, rubbing of legs,	What makes for a career person, the choice of meals in the advert, sensual scenes (attracting interest), beach life

Molfix Baby Pants

Level 1: Structuring of the Advert

The Molfix Baby Pants advert starts with a presenter giving us *'breaking news'* from the company Molfix. The scene with the presenter gives way to one in Molfix's R & D department, where we are presented with video of babies hard at work. The product they are developing concerns them, and it is the Molfix Baby Pants. The aesthetic and associative contexts employed in this advertisement do a great job of directing our focus on the product, particularly by limiting our perceptual choices: the elements in each scene are all relevant to the product at hand or the brand name itself. The lighting, for one, along with the bright and highly saturated colors combine well with the catchy jingle sang by children to give off high energy. This is crucial for this advert as it is targeted towards children and their parents, more so because the desire is for them to aspire to be like the happy, healthy, and active children portrayed in the advert.

Level 2: The Power of Context

When a child researcher leads us into the R&D department, we notice about four stations in the room with children who are in various stages of testing the product as smiling adults look on. Some of the children are wearing t-shirts with the Molfix logo, while others are in lab coats, complete with pens and clipboards. Holograms illustrate the Molfix Baby Pants' anatomic fit feature, while other screens demonstrate how these pants make bellies comfy thanks to a flexible waist and body system, as well as how easy they are to wear and to remove.

Additionally, the children at each station in the R&D department demonstrate just how snug and comfortable these Molfix pants are by playing around and dancing in them as the adults mind them and other babies, in researcher roles, take notes. Just before the final shot of the advertisement with the *'breaking news'* presenter, the product is cast centre stage with the New Molfix logo at the top left, as a baby researcher complete in a Molfix-branded lab coat claps happily with a big smile to match. The R&D department is blurred in the background for this shot so that our focus can be on the happy child and the product responsible for generating such joy. The presenter brings the advert to a close, telling us that we should also try Molfix.

Level 3: Our Perceptions: Cognitive & Mental Maps

There is little doubt that this advertisement appeals to the elements of fun and happiness that are bound to attract children and their parents, by extension, to the product. When we are invited to see what Molfix is developing right now, we find that it is children who are the researchers and test subjects, with the adult ladies present either clapping or cheering

them on or helping them wear and remove the baby pants. The voiceover, from the presenter, tells us that the new Molfix Baby Pants are an invention from babies for babies; a line which, while adults watching this advertisement would understand to be an exaggeration, can only be swallowed as the whole truth by the children watching the advert. This advertisement, after all, is not just targeted towards parents alone, but the impressionable children who will be the actual users of the product as depicted in Figure 4.3. Buijzen and Valkenburg (2002) explain that both brand attitudes and purchase intention have been repeatedly shown to be determined by consumers' attitudes towards a commercial, so that when children like an advert, the chance that they also like the brand and ask their parents to buy that brand becomes greatly enhanced.

Table 4.3: Analysis of Molfix Advert

Structuring of the Advert	The Power of Context (Aesthetic & Associative)	Our perception towards them [On screen & off Screen Cognitive & Mental Maps]	Intellectual & Cultural Framework
Light and color, two and three-dimensional space, space and time as well as sound	Music for the children, voice of Terryanne Chebet, the smiles depicted by the children	The lab coats, clipboards for researchers	Celebrity use, the use of a Research & Development department

Bega kwa Bega with Optiven Real Estate

Level 1: Structuring of the Advert

Done with a wide range of aerial shots as well as ground-level view shots, the Bega Kwa Bega with Optiven Real Estate advert seeks to sell Equity Bank as the one bank that truly understands and supports entrepreneurs and start-ups. But even though this advert does talk about the advantages of partnering with Equity Bank, it also does a great job of marketing Optiven Real Estate. The use of drone footage helps capture and draw attention to the beautiful surroundings and the scope of the planned development estate that we must assume are some of the plots or real estate that Optiven deals in, all without any ground distractions or disruptions to the footage. How natural lighting has been taken advantage of, particularly in the drone shots, gives the commercial a realistic, aspirational even, feel which helps the viewer associate Optiven with high-quality land deals.

Level 2: The Power of Context

The calm, gentle music in the background, along with the gently rolling landscape shots in the commercial, play a critical role in establishing an associative context that sets the tone for the idea or sense of camaraderie between Equity Bank and Optiven. The viewer is a lot more likely to visualize a supportive, peaceful and tranquil relationship between the Bank and its partners with this choice of music than if a rock song or some rowdy backgrounds were used. The choice of music also agrees with the property highlighted in the commercial Victory Gardens Phase 3, which carries the tagline '*Home of peace, tranquility & serenity*'.

Level 3: Our Perceptions: Cognitive & Mental Maps

That this advertisement paints a picture of a reliable and supportive partner where Equity Bank is concerned is not in doubt. When Optiven’s Chief Executive Officer states that his company is targeting to borrow 5 billion shillings next year and, more importantly, that the bank asked how it could assist Optiven when the COVID-19 crisis hit, before it went ahead to give the company a moratorium of two years, the earlier assertion that Equity Bank is a true friend to the entrepreneur and start-up is reinforced as illustrated in Figure 5. What this advertisement does not do is educate viewers on the requirements necessary for a business to qualify for loans and moratoriums, as well as make mention of the fact that there will naturally be interest levied on these banking products. After painting a rosy picture of the deal that Optiven has been able to secure at Equity Bank, the advert leaves out other important considerations for entrepreneurs which can make it a trifle misleading, especially when it is claiming that it is thanks to the bank that Optiven is not struggling like “75 percent” of businesses out there.

Table 4.4: Analysis of Equity Bank Advert

Structuring of the Advert	The Power of Context (Aesthetic & Associative)	Our perception towards them [On screen & off Screen Cognitive & Mental Maps]	Intellectual & Cultural Framework
Light and color, two and three-dimensional space, space, and time as well as sound	Establishing shots, the close for the Managing Director Optiven, the background instrumental music	Transition of the shots- from the aerial view to the close, houses under construction, the already	The desire for land purchase in the country, loan restructuring as a result of COVID 19

Chaka Ranch

Level 1: Structuring of the Advert

Opening with an aerial shot, the Chaka Ranch advert combines an array of video footage with some soothing music to bring out the element of calm and relaxation that one can expect upon visiting the tented camp. The aesthetic and contextual cues used in this advert serve to highlight the premium experience that guests have at the '*perfect getaway*' spot that is Chaka Ranch.

Level 2: The Power of Context

The advert starts by a zoom in on one of the establishments in the ranch and ends with a zooming out motion which effectively serves to give the viewer an idea of the scope of the grounds the ranch covers. A combination of aerial and ground-level footage gives flair to the commercial and helps showcase the range of features and accommodations available on the ground: the beautiful gardens and natural surroundings, tented cabins, boardroom and conference facilities, and the numerous outdoor activities that include riding.

Save for the night scene where a mother tucks in two children, the Chaka Ranch advert uses natural lighting. The aerial shots, however, are a little shaky, while the transitions between scenes are a quite fast and jumpy, especially given the calm and collected manner in which the narrator tells us about the ranch, as well as the evenly paced music that accompanies the advertisement. Smoother transitions would have made the advert look more professional while reducing the cognitive dissonance and tension it creates between the music and voiceover, and the video itself.

Level 3: Our Perceptions: Cognitive & Mental Maps

Indeed, while the voice talent is rich and powerful, there is some inconsistency between what the narrator says and what the video shows as shown in Table 7. When he says that “*every moment is to be treasured when you spend a night...*,” we are looking at aerial views of Chaka Ranch in broad daylight, and yet there is actual footage of people spending a night in the ranch a little later after the narrator tells us that we, “*can simply sit back, relax and enjoy the peace and quiet.*” Zettl (1998) warned that advertisements must be seen to make sense lest they bring about spatial discontinuity that comes off as a mistake in the eyes of the audience.

Table 4.5: Analysis of Chaka Ranch Advert

Structuring of the Advert	The Power of Context (Aesthetic & Associative)	Our perception towards them [On screen & off Screen Cognitive & Mental Maps]	Intellectual & Cultural Framework
Light and color, two and three-dimensional space, space and time as well as sound	Voice by Johnson Mwakazi, the quad bike sounds, background music	The major shots; families moving from a section of the hotel to another, the text on screen, bouncing castle	Family outings, the choice of words, adventure,

Violation of Consumer Rights: A Consumer Perspective

This objective sought to answer the question as to whether the media aesthetics in television advertisements violate consumer rights. This was done through an FGD conducted with a group of eight media professionals. The FGD was carried via zoom, on 5th March 2021, owing to the restrictions of physical meetings occasioned by the Covid 19 pandemic. Consent to record the conversation was sought and received from the participants and the audio recording was download for analysis. The audio recording was

transcribed using an online tool, temi.com. This tool was preferred because it can transcribe and give timings where a participant was giving their remarks. The other advantage of temi.com is the coding of speakers so that their identity is concealed. The analysis of the FGD revealed the following:

The Use of Celebrities in Advertising

Two of the advertisements under review have employed celebrities as brand ambassadors. These are the Aerial advert (Johnty Fresh) and the Molfix Advert (TerryAnne Chebet). One of the participants confessed to having been influenced to start using the product owing to the celebrity used in the Aerial advert, Johnty Fresh, commonly known as Silas.

As for me, I saw Silas in the advert and got more interested. I think this is a very good consistency between the character he plays in Maria and the advert we are reviewing. They, of he plays in the media program. Yeah. So I find that to be a very good. I currently use Aerial at home for my cloth wash because I identify with him (Participant 1-0457)

Silas was one of the lead actors in a just concluded local television series known as *Maria*. This programme featured an uneducated street girl from the *ghetto*, no parents but can navigate through life easily to the extent that she would advise people from an affluent background on life skills. Silas was a neighbor to Maria. Their lives, as portrayed in the drama, were those of just surviving for the day as tomorrow takes care of itself. As such, the program has had a very huge following. The producers of Aerial have benefitted from this, as the advert has garnered the highest views, among the advertisements reviewed in this study, on YouTube. Further, the choice of Silas seemed to have achieved celebrity-brand congruence, with one of the participants citing that they have seen the product silently introduced in the *Maria* program.

Moreover, another participant noted that the mind behind the setting of the TV program Maria has influenced the conceptualization of the advert. This is in line with the role Silas has been given. In terms of cultural frameworks, there is the language choice by people who live in the slums, where they buy clothes, the nature of the clothes (second hand) and the morning rush for the vendors to pick their stock.

Look at the language first then at the setting. It's not an uptown sort of a setting. So for me, I think the bigger picture for me here is the target audience, who are they targeting through the setting, the language and the packaged message... so those three for me, a standard for in this advertisement (Participant 2-0706).

Due to the influx of advertisements in television, brands are competing for the attention and positioning of the product. The producers take advantage of the positive publicity from these celebrities to endorse the product. This is because negative publicity on the celebrity may end up affecting the product perception. From the FGD, there seems to be a direct relationship between product endorsement by a celebrity and the improvement in an organization's profits.

While introducing Terryanne Chebet as a brand ambassador, Mr. Hayat Kimya, the founder said that they hope to take over the Kenyan market in two years. How? One in every three children will be using Molfix. The launch and operationalization of the product cost the firm KES 600 million. This is evidence of efforts made by producers to increase their profits through celebrities.

From the foregoing, it is evident that celebrities play a key role in how products are perceived and accepted in any market. We have seen Ariel has used celebrities particularly in the UK, and this seems to be their marketing strategy. The use of celebrities may violate consumer rights through:

In the two advertisements as discussed during the FGD, the celebrities claim to be users of the product yet this cannot be substantiated. The statement that “*Johnty fresh*” has the power to transform ordinary *mtumba hii Gikosh yote* (The whole of *Gikomba* market) is outright deception considering that over 65,000 people are working in *Gikomba* Market. The bulk of the business happening in *Gikomba* is selling second-hand clothes and whether he can transform the clothes for ten traders is a question left for discussion. Terryanne, on the other hand, presents herself as a mother of two who has found the diapers effective. This is at a point where diapers are being introduced in the Kenyan market.

The diaper market in Kenya, for example, is a very rich one since on average the consumption is 800 million diapers per year with each costing an average of Kshs. 20 (Wambui, 2019). If Molfix gets a third of this share, as they claimed is their goal two years ago, this would be a turnover of about Kshs. 5.3 billion. The manufacturer may take on any marketing strategy to reach this target.

Deception in Advertising

The possibility of exaggeration in advertisements came out quite clearly from the FGD.

When asked about the instances of deception, one of the respondents had this to say:

I bought a smart watch on Jumia after watching their advert. And I mean, when I later looked at the reviews, you know, it was wonderful. So, I decided to order this watch and it was delivered to me. I was very excited about using it. So, when I go to the house, I plugged it into the charger and, you know, the way those, old Chinese phones used to sound when you put them on ...it was very frustrating. Whatever I had seen in the advertisements and reviews is not what I received (Participant 4-2644).

The other participant talked of an experience with a recent advert on *Nutripro*. He posited that the advert was very appealing and the family thought that their struggle with taking care of their children's diet had come to an end. On cooking the porridge, it was not as tasty

as it had been promised, the whole family stopped using the porridge. He later found a conversation on Facebook on how disappointed they were.

I watched an advert on TV, and it was convincing. It was about a porridge flour called Nutripro or that sort of thing. It's about a family porridge. Yeah ... I saw the advert with the family and then we thought that it is a very good positive thing we've been seeing. We decided to buy it and after we bought it, everybody in the family was as shocked. This is not the way we thought it it's about, first of all, when they made it, it was not as they had promised, and no one wanted to take the porridge. I wanted them to cook the whole porridge and finish it since it had a bad taste. We ended up throwing it away.... but I can tell you that what we saw in the TV was so good, but now it disappointed us since it was not what we expected it to be (Participant 5-2357).

Deception has also been seen in the Molfix advert where the viewer is introduced to children in a R & D department researching on what is the best diaper for them. The very thought that children of less than a year old can decide on a product they need is mind-blowing.

To get rid of deception in advertising, one of the FGD's participant suggested that the government can institute and fund a consumer protection body. They also observed that COFEK being private, funding may be problematic.

It can go the legal way; if the government can establish a consumer protection unit. Cause I think I've been at the moment; we don't have. All we know is COFEK which is a private consumer protection federation (Participant 8-3023).

Gender and Socialization in the Advertisements

Agents of socialization are people such as parents, or institutions such as schools, which help to integrate people into society. They help people to integrate by teaching them how they should behave within a societal setting. Media are powerful agents of socialization. The advertisements are used to even more socialize people subtly to certain societal codes.

They have a long acknowledged power to represent “socially acceptable” ways of being or relating to others. They have the power to allocate or withhold public recognition, honor and status to a person or a group of people.

Media constructs gender identity and roles in the way people are assigned duties. A quick preview of the advertisements that were purposively selected for this study show that men are supposed to be masculine (Johnty Fresh carrying the bundle of clothes, the man in fresh fri advert), men are leaders owing to the choice of Mr. George Wachiuri yet other women have succeeded in the Real Estate space. In the Fresh fri advert, for example, we are introduced to a career man who finds the wife preparing a meal for him among other instances. The perfect woman is also depicted to be light-skinned and slender

How does media construct gender identity? By emphasizing the roles of women and men, how men and women should behave and what men and women should constantly think about.

Cultural and Intellectual Frameworks in Advertising

Despite the Media Literacy Model raising the issue of culture as a component of advertising, the FGD discussants also noted that people’s culture has been used by advertisers to ensure that there are more people patronizing with the product.

In the advertisement reviewed, Aerial, which is arguably connected to the *Maria* TV series, the culture of the people believed to live in semi-structured settlements is alluded to. One of the ways we see is by use of the language. One participant noted that *Sheng* (a mix of English and other languages) has been used to appeal to the masses. Words such as *Mtush* and *Gikosh* are examples:

More Sheng has been used in the advert. So for me, I think well the advert on the pack, the people that the advertisements are targeting also matters, and the message there has to relate in terms of language, in terms of words used in the streets... So if you look at the setting somewhere, you come back and you look at the language. (Participant 7-0622)

It is interesting to note that culture has a way of denoting where people are from. By the application of the words in the advert, the participants could already tell that this is a language of the streets, that also denotes the setting.

Consumer Rights Legislation in Kenya

The third objective was to examine protection regulations put in place to guard against violation of consumer rights in these TV advertisements. using secondary data for this objective to see how the regulatory landscape has been championing consumer rights. Some of the findings with regard to consumer legislation were:

Information Asymmetry & Consumer Protection Act

The study found out that various documents have been put in place to guard the consumer from deceptive advertisements. They include the Consumer Protection Act (2012), The Code of Advertising Practice in Kenya, The International Chamber of Commerce Code, The Media Act 2007. Notably, because of the different documents focusing on the same challenge of the rights of consumers, the different bodies seem to be pulling in different directions leaving the consumer in the middle.

There are different arguments on the enactment of the Consumer Protection Act (2012). Some scholars believe that it has brought hope on the earlier fragmentation of information. The act is an “act of Parliament to provide for the protection of the consumer, prevent

unfair trade practices in consumer transactions and to provide for matters connected with and incidental thereto.”

The enactment of this document gave hope to the role of the COFEK in being more aggressive in lobbying for the rights of the consumers. The description of COFEK from its website gives some hope:

The Consumers Federation of Kenya (COFEK) is Kenya’s independent, self-funded, multi-sectorial, non-political and apex non-profit Federation committed to consumer protection, education, research, consultancy, litigation, anti-counterfeits campaign and business rating on consumerism and customer-care issues.

The Federation was registered on March 26, 2010. COFEK works towards a fair, just and safe marketplace for all Kenyan and regional consumers in all sectors of the economy.

COFEK is a founder Chair of the Government-run Kenya Consumer Protection Advisory Committee (KECOPAC). Their mandate is drawn from Article 46 of the Constitution of Kenya.

This description gives a lot of hope regarding enactment and prosecuting of consumer related issues in the country. According to the Secretary General of COFEK, the body is registered as a society and consumers must be registered in order to be supported.

Foreign Laws and Policies

The study found out that there are other consumer protection laws that have the possibility to override the local legislation. These include the: “European Commission (EC) Product Safety Directive, the EC Product Liability Directive, the EC Consumer Sales Directive and the EC Unfair Commercial Practices Directive.” As such, the COFEK may find its hands tied owing to the challenge in financing and may not be able to sufficiently address the consumer issues.

Summary of Key Findings

The study found out the following:

1. The principal building blocks for media aesthetics analysis have been applied in the select advertisements to create visual appeals and patronage of consumers to the products being advertised.
2. The aesthetics and associative contexts have been used to structure and manipulate the views of the audiences; sound has been used to enhance this manipulation. This level can be argued to be where deception occurs.
3. Advertisements are powerful sources of information about a new product. There were participants in the FGD who noted that they first interacted with particular brands through advertising communication and have since not been disappointed. Bottom line is, some advertisements simply communicate truthfully the utility of the products.
4. There is a growing number of deceptive advertisements. The FGD allowed participants to debrief by sharing different experiences and how they have been disappointed while using certain products.
5. The COFEK has made attempts to legislate consumer rights issues. The federation has great potential but has not been successful as it should have been owing to the duplication of roles, lack of due diligence on their part and more importantly other competing international codes that tend to suppress its work.

Summary

This chapter has described in detail the data collection and analysis. The primary data was collected qualitatively. The first batch was collected through advertisements analysis, the second was a thematic analysis of an FGD and finally the secondary analysis of milestones and challenges experienced by the COFEK. Some platforms have been useful in analyzing the data. These include Zoom, temi.com for transcription and NVIVO for thematic analysis and drawing a pattern for the data.

Discussion of findings, summary and conclusions are discussed in the next chapter.

CHAPTER FIVE

DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

Introduction

This chapter discusses the overall findings and implications in light of the theoretical or conceptual framework provided in the literature review in chapter two. The conclusions for the study will be drawn in line with the research questions to explain if they have been answered. Finally, this research will make conclusions, propose possible areas for further studies and recommendations.

Discussions of Key Findings

Media Aesthetics Elements in Select Television Advertisements in Kenya.

The first objective for the study was to establish the media aesthetic elements applied in advertising communication in the advertisements that were viewed for this study. The findings indicate that the aesthetics of lighting and color, two and three-dimensional space, time and motion have been applied in television advertising. This is in line with the Media Aesthetics Theory and the media literacy model as proposed by Zettl (1998). These elements have been applied in the advertisements to create a system of aesthetic fields from which we can deduct meaning. The study also found out that the model proposed by Zettl (1998) useful in determining our understanding of television advertisements and film appropriate, especially that the elements in the first level of evaluation are regarded as the principal building blocks for any method of media analysis.

The findings of the study indicate that, in line with Zettl's argument, contextual media aesthetics are foundational to media literacy. This is appreciated through understanding the basic building blocks used to create and shape our cognitive and affective mental maps. This, he argues, is important for creators and consumers of media information.

The main thing that the structuring of aesthetic elements creates is mental mapping (Zettl, 1998). Mental mapping influences how the audience perceives the aesthetic elements regardless of the intention of the source and type of media. However, these elements tend to have more effect on television owing to its restrictive nature. This is contributed by the screen size, the high cost of broadcast time and our need for constantly changing information (Meyrowitz, 1985; Zettl, 1998). From the foregoing, it is evident that then advertisements would have more impact because of the limited time that the advertiser has to communicate in a very short time. The audience is left to fill in the missing information through psychological closure. The filling of the missing links cognitively can happen on the screen (as the advert plays) and off the screen (after the advert has played). Further, filling also happens where the audience thinks about what is not shown in the screen and the transition of the various shots.

While analyzing the place of enhanced visual elements in television advertising, Chepchirchir and Mwangi (2020) note that this is designed to ensure that the advertisements are beautifully packaged to persuade the consumer to buy the product thereby maximizing the profits for the company. The application of these elements, they argue, is easily taken in by the consumer owing to the power of the media. These elements are used to arouse the interest and attitude of the viewer towards the attitude. There is a possibility for television advertisements, and the producers to engage in a race of enhancing

the beauty and expression of the advertisements without regard to the quality of the product. For example, what elements can be added to distilled water to make it different among the companies involved in this business?

The Media Aesthetics Theory has been utilized in the conceptualization of advertisements. Zettl (1998) avers that the media aesthetics elements would include “incidents of life, art and life, art as clarified and intensified experience, and order and experienced complexity.” It can be argued that the advertisements are not disconnected from real life. The advert by the Equity Bank and Optiven Real Estate is quite contextual and discusses current challenges that the people are facing in the midst of COVID-19 pandemic is brought to the picture. The vast green land captured by the aerial shots and the conviction with which the Chief Executive Officer’s speech, not ignoring the calm music in the background that creates a calm and reassuring context are just but examples.

As Chepchirchir and Mwangi (2020) argued, images used in television advertising are powerful in providing a channel for communicating visual content. Further, they encouraged producers to be aware of the interpretation of color among culture and communities since this would be interpreted differently. This means that advertisers should research color choice in advertisements so that they achieve maximum impact. Nyaole (2011) argues that a producer must employ artistic techniques for the message to be internalized. These techniques, specifically to visual elements, are viewed from a frame of capturing the attention of the viewer within the shortest time possible since advertising is a costly exercise.

From the foregoing, it is clear that the advertisements in Kenya have managed to apply the principal building blocks for visual elements thus attracting the viewer’s attention.

Analyzing these blocks is essential in showing the true effect of the message, such as the role of the visual elements in manipulating the perception of the viewers. These elements have a manipulative power on the viewer. This is achieved through the creation of aesthetic and associative context through background music (sound).

There are cases where children have been extensively used in advertising communication. Radesky, Chassiakos, Ameenuddin Navsaria and Council on Communication and Media (2020, p. 24) noted that:

Research on children's understanding of television advertising demonstrates that children 7 years and younger have limited ability to understand the persuasive intent (ie, that someone else is trying to change their thoughts and behavior) of the advertiser. From ages 7 to 11 years, children can start to recognize television advertising and persuasive intent with their parents' assistance but lack the abstract thinking skills that help individuals recognize advertising as a larger commercial concept. At 12 years of age and older, teenagers were able to identify television advertisements (ads) and advertisers' intention to change behavior.

The fact that children cannot understand the intent of the advertiser in itself, shows that they should not be used. Parental consent has been used in the past to justify the use of children. The Bill of rights puts it well thus:

“Every person has inherent dignity and the right to have that dignity respected and protected” (Constitution of Kenya, 2010).

The advertisements present us with images, which we buy, and we begin judging others that do not live up to those images. They construct definitions of what should be accepted as reality. These definitions appear to be inevitable, real, and commonsensical. This ability makes media unquestioningly contribute to norms, values, and beliefs.

The media literacy model has proven useful in as a frame for analysis by introducing contextual media aesthetics. The main argument is that contextual media aesthetics is a

necessary link between analysis and production of aesthetics elements. Understanding the Media Literacy Model reveals “how we are perceptually and contextually influenced by various media messages effects that are not always readily exposed through conventional analysis techniques” (Zettl, 1998). However, the issue of culture, though argued by Zettl that the aesthetic cues are independent of the event, does not come out strongly from the essay and the model presented. To a large extent, the study agrees that culture is ingrained in the way the audiences are influenced by other elements (Levels 1-3)

Media Aesthetics Elements in Television Advertisements and Violation of Consumer Rights.

The question of consumer rights as a result of the composition of advertisements seems not to have attracted authorship. The research by Chepchirchir and Mwangi (2020) on the impact of visual advertisements among residents of Kericho conveniently avoided the discussion on consumer rights. This may be because of the model of analysis, Kress, and Van Leeuwen’s (2006) on Multimodal Discourse Analysis, which restricts itself on the advertising influence on the target audience. It is clear from the research that the viewer is imposed on what they are supposed to see, the product strength for them to make a purchase decision. Chirchir and Mwangi take the conversation of aesthetics of color and lighting deeper to regional segmentation. Some advertisements may not be effective in some areas compared to others because of their perception of color. In as much as the conversation of consumer rights seemed to have been left for the reader to “fill in,” it is implied in this research.

From the FGD, the study found out that the aesthetic elements in advertising communication have an impact on consumer rights. The respondents agreed that they have

been introduced to product brands through advertising, and later patronized on the product based on the detailed aesthetics. Advertisers are not leaving anything to chance.

It is also worth noting, especially from the advertisements reviewed, that some of the respondents could not identify the consumer rights issues that emanate from the media aesthetic elements. The respondents were people who are media professionals and engaged with the work of Herbert Zettl extensively. While making a case for media literacy, Zettl (1998, p.2) argues that *“anything that has as much influence on our individual and societal development and behavior as the mass media needs to be carefully analyzed and examined.”*

A study by Mucheke (2019) shows the extent to which advertisements have violated consumer rights by the use of celebrity endorsement. The study found out that this has been extensively used by the producers of Aerial detergent not only in Kenya but also in other jurisdictions. Celebrities are believed to be bonafide users of a product or a service which can be debated since their usage, or lack of it, cannot be substantiated. The US Federal Trade Commission rule is that the celebrity must be proven to be a frequent user of a product to endorse it.

In the Civil Case 370 of 2013, the High Court suspended the Aerial advert for claiming that the detergent could remove stains in “only one wash”. This was after Unilever, the manufacturers of the Omo detergents claimed that Proctor and Gamble portrays Omo as an inferior detergent compared to Aerial. This study found out that the words may have changed but now the use of lighting is applied to communicate this message, albeit subtly. Apart from this case that a manufacturer has sought legal redress over what they perceived as deceptive advertising, there is no case raised by a consumer on a similar matter (Kenya

Law, 2015). It can be appreciated that consumers have tried the court of public opinion by running some pages online, especially on Facebook such as “*Buyer Beware.*” This has only an effect on the people accessing the platform and limited to the members admitted since it is a private group. A sustainable solution would be the legal process in the country, where the COFEK should come in strongly and live to its mandate.

The case of Nutripro porridge raised by one of the participants in the FGD has extensively used colors and lighting to show its superiority. This porridge brand was being trolled in a Facebook group, ‘Let’s Cook Kenyan Meals’, for its inefficiency and overpromising mainly because it shows that the other brands, especially the traditional way of mixing the various ingredients at home as tiring and timewasting. In essence, the other brands are inferior to Nutripro.

In the case of loan holidays and restructuring by banks with reference to the Equity Bank advert with Optiven, the quick action by the customer would not be why the bank is putting up an advert for this. Some banks charged the customer to restructure the loans, others requested that the customer continues paying interest while the principal amount remains the same, which at the end of the day, will mean that the customer pays more interest at the end of the day. It is only Absa Bank that was clear that it could not charge the customer to restructure the loans but the potential of the restructuring to the consumer is left for anyone’s guess. The regulator had made it clear that the banks would bear the cost of restructuring (Obulutsa, 2020).

COFEK's Role in Consumer Legislation in Kenya

The federation has made attempts to legislate Consumer rights in Kenya. The most recent engagement was about the introduction of a levy fund that led to a hike in the price of oil. This was a bold move as the Secretary-General of COFEK appeared before the Parliamentary committee on delegated legislation to oppose the eleven new regulations on the Oil Marketing Companies. These regulations were argued to be disadvantageous to the consumer (COFEK, 2021)

The study found out that COFEK has been trying this battle of the control of fuel prices by the Energy and Petroleum Regulatory Authority for some time now. The first matter was filed before the High Court in Milimani in 2011. While reading the judgment later in 2012, Justice Mumbi Ngugi noted that COFEK (the petitioner of this matter) kept on changing dates and asking for more time to gather more recent data. On the day of the ruling, the judge noted as follows:

While it is indeed true, as conceded by the respondents, that high fuel prices do have a negative impact on the cost of living, how, for instance, does the petitioner arrive at the conclusion that the respondents cap oil prices in favor of oil companies? What policy measures have the respondents failed to take in order to 'protect citizens from further suffering, slow economic growth, declining living standards and high inflation thus infringing the aforesaid fundamental rights and freedoms'? (Kenya Law, 2012, 37)

This decision was made in the absence of the petitioner (COFEK) not to mention the non-appearance of the petitioner on several matters before the court. These matters have been filed by the Consumer Federation of Kenya. This problem of non-appearance has also led to the dismissal of cases such as petition 239 of 2015 where the COFEK petitioned Nakumatt Supermarket for unfair pricing only for them (COFEK) not attend court sessions as required.

The study also found out that the COFEK has filed many other cases with the High Court but the success of the petitions leaves a lot to be desired. The federation may not entirely blame as research shows that there may be interference from other legislation that seems to supersede what has already been provided for by the Kenyan Constitution (Malala 2018). The main challenge that Malala finds out is the fragmentation of consumer laws in Kenya. Kenya has many bodies that are tasked with checking consumer rights. These include the Competition Authority of Kenya (CAK), Kenya Bureau of Standards (KEBS) Anti-counterfeit Authority (ACA), Kenya Consumer Protection Advisory Committee (KECOPAC), Department of Weights and Measures, Central Bank of Kenya (CBK), Insurance Regulatory Authority (IRA), Energy & Petroleum Regulatory Authority (EPRA), Kenya Industrial Property Institute (KIPI), Medical Practitioners & Dentists Board. Furthermore, other international legislation may influence how consumer issues are legislated in the country (Malala 2018).

Notably, Kenya has no shortage of legislation to cushion consumers from deceptive advertisements. The following were legislations put in place: Trade Descriptions Act, Standards Act, Weights and Measures Act, Restrictive Trade Practices, Monopolies and Price Control Act (now known as the Competition Act), The Foods, Drugs and Chemical Substances Act, The Pharmacy and Poisons Act, The Public Health Act, and The Fertilizers and Animal Foodstuffs Act.

Moreover, with the promulgation of the Kenyan constitution in 2010 and the enactment of the Consumer Protection Act (2010), there finally seemed a ray of hope. The formation of the COFEK in 2012 seemed a final whistle to a winning team. The mandate of the COFEK is clear and appropriate branding has been done to that effect.

In a study by Muccheke (2019), there is no shortage of instances where the COFEK has complained about misleading advertisements in Kenya, calling for stricter implementation of the Consumer Protection Act 2012. This act has been termed an industry document and not strong in punishing deceptive advertising. The Act establishes several consumer protection bodies such as the Kenya Consumer Protection Advisory Committee (KECOPAC) to aid in the formulation of regulation. The COFEK notes that it is a founder chair of this committee though the consumer is yet to witness its success. Even though such a body was formed in 2013, it remains weak because of a lack of funding to establish basic infrastructures such as offices or management (Consumer Federation of Kenya, 2021).

In the analysis of the secondary data available, the study found many petitions and engagements that the COFEK has been able to start. This is an encouraging step as the federation attempts to reach its mandate. However, it is sad to note in several judgments that follow-up for the cases, which one may refer to as due diligence, seems not to happen. There is the reality of many consumer rights issues that are available for legislation, but it seems that either they are too overwhelming, or the federation has no capacity.

Conclusion

As Zettl (1998) stated, it is possible to have image elements in advertising and their specific structures manipulative. This is fueled by stiff competition occasioned by many products in the market selling similar, if not the same, products. It can be seen from the study that organizations are making investments in the conceptualization and products that will support them win over as many customers as they can. This appeal is not necessarily tied to the utility of the products. As seen in one of the advertisements viewed, the bottom line is to become market leaders in the sales of a product as opposed to essentially meeting the

need of consumers. These elements are an addition to the advertising industry, but care must be taken to ensure that they are done with sensitivity and integrity.

Consumer legislation is dismal; these gaps have seen consumers suffer price increases, deceptive advertising and left to resign to fate. In as much as there is a lot that has been done to come up with acts and policies that are aimed at consumer protection, this country has a long way to go concerning its consumer legislation maturing. Apart from the one case where we have one company taking the other one to court, we do not have instances where the consumers themselves have taken any initiatives to lobby for their rights in the proper channels.

The Media Literacy Model by Herbert Zettl (1998) is useful in analyzing media messages. A lot more inquiry, into this model, needs to be developed through research. This study, however, found that the first three levels were useful but could not find the utility of the fourth level “Intellectual and Cultural Framework for Media Criticism and Theory” for the specific advertisements evaluated in this research. The element of intellectual and cultural framework could easily be seen in advertisements that target regions such as the research done by Chepchirchir & Mwangi on Kass TV where the cultural framework for certain colors can affect the perception of the message by the audience.

Recommendations

Based on the findings of the study, the following are recommendations in line with the categories below:

1. Media Aesthetics and Commercial Interests

It is no doubt that aesthetics is part of our everyday life and regardless of what we do every day, we must make aesthetic choices. However, understanding and appropriating the media literacy model as a basis for media literacy will need to be revisited. This possibly should inform teaching and instruction in the institutions of higher learning so that the level of thinking and engagement of the graduates is at a commendable level. This may mean retraining and upskilling of the Editorial Directors so that the advertisements are analyzed, and proper leadership offered. The possibility of having these editors not trained in communication is certainly a reality though there is hope for training them too. A better environment would be where the advertisements are managed by qualified media practitioners.

The organizations on their part would be encouraged to see how they can meet the need of the consumers without being deceptive. There are ways of creatively communicating the value proposition of products without manipulation by giving the product characteristics that it may not have. This may mean rethinking the nature of the mission of the organizations/companies from profits to meeting a need. In this structure, money becomes a consequence of the above and not vice versa.

The other commercial interests are on multinationals influencing the editorial policy of media houses and the local programs. The stations should develop an internal policy as the framework that guides advertising practices. YouTube has made it easier for advertisements to be accessed easily as well as embedded advertisements as part of content watched online. It may be helpful to have a policy that is seen to protect the consumer.

2. Consumer Rights the Role of the Consumer

There is a need for education to the consumers about their rights when it comes to the purchase and use of products. Advertising is a powerful tool for communication and the level of trust among the consumers on television is quite high. Since the consumer landscape is changing with regard to product feedback, consumers should use the available channels to raise awareness over consumer deception. The lobby on the Nutripro advert is an example of good steps in the right direction though it is limited to a segment of the population with access to digital media.

Recommendations for Further Research

This study recommends a study on advertising policy and media aesthetics specific to television advertisements. This study limited itself to the analysis of the aesthetic elements in television advertising and their impact on consumer rights. Future studies could audit the relationship between manufacturers, advertising, and consumers to appreciate what the gaps could be with regard to the process before an advert is aired.

There does not seem to be a lot of research on the field of aesthetics. For example, authors have not engaged and critiques the Media Aesthetics Theory and the Media Literacy Model. More research needs to go into this, with the media lobbying on the application of aesthetics and models that can guide media literacy. It is over twenty years since Zettl developed the model and a lot is changing.

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Appendix A: Focus Group Discussion

My name is Francis Wachira, a Master of Communication Student from Daystar University. I am conducting a research on Media aesthetics and violation of consumer rights. This research is solely for academic purposes.

Questions for Focus Group Discussions

1. When you look at the advertisement earlier shared, what is your impressions?
Anything you like/dislike?
2. Do you find the advertisements speaking to your needs?
3. Being that you have utilized this product, what would be your comments on what is on the advert and the utility you find on using the product?
4. How truthful do you find the advertisements?
5. How did you know the existence of the brand that you are using?
6. Have you been enticed by a product owing to its presentation but got disappointed by the actual results?
7. What guides your choices and options when buying a new product?

Appendix B: Researcher's Letter of Introduction



Atli River Campus
P.O. Box 17, Daystar University,
90145, Atli River, Kenya

Valley Road Campus
P.O. Box 44400 - 00100,
Nairobi, Kenya

Tel: 0709 973 000 (Pilot Line)
0716 170 313 (Marketing)
0748 100 759 (FR Line)

Email: admissions@daystar.ac.ke OR
info@daystar.ac.ke

Website: www.daystar.ac.ke

February 16, 2021

To Whom It May Concern:

Dear Sir/Madam,

FRANCIS WACHIRA (STUDENT NO: 17-1524)

I am writing to confirm that the above mentioned is a Daystar University student pursuing his Master's degree in Communication. Presently he is working on his thesis entitled '*Media Aesthetics Component of Advertising Communication and Consumer Rights Violation: A Study of Select TV Adverts*'.

Any assistance given to him will be highly appreciated. Should you require further information, please do not hesitate to contact the undersigned.

Yours Sincerely,

(For)

Dr. Beatrice Mbogoh
HOD, Media & Film Studies
bmbogoh@daystar.ac.ke

"...until the day dawn and the **daystar**
arise in your hearts"
2 Peter 1:19 KJV

Appendix C: Ethical Clearance

VERDICT: APPROVAL WITH COMMENTS
Daystar University Ethics Review Board



Our Ref: **DU-ERB/09/02/2021/000489**

Date: 9th February 2021

To: Francis Wachira

Dear Francis,

RE: MEDIA AESTHETICS COMPONENT OF ADVERTISING COMMUNICATION AND CONSUMER RIGHTS VIOLATION: A STUDY OF SELECTED TV ADVERTS

Reference is made to your ERB application reference no. 080221-02 dated 8th February 2021 in which you requested for ethical approval of your proposal by Daystar University Ethics Review Board.

We are pleased to inform you that ethical review has been done and the verdict is to revise to the satisfaction of your Supervisors and Head of Department before proceeding to the next stage. As guidance, ensure that the attached comments are addressed. Please be advised that it is an offence to proceed to collect data without addressing the concerns of Ethics Review board. Your application approval number is **DU-ERB-000489**. The approval period for the research is between **9th February 2021 to 8th February 2022** after which the ethical approval lapses. Should you wish to continue with the research after the lapse you will be required to apply for an extension from DU-ERB at half the review charges.

This approval is subject to compliance with the following requirements;

- i. Only approved documents including (informed consents, study instruments, MTA) will be used.
- ii. All changes including (amendments, deviations, and violations) are submitted for review and approval by Daystar University Ethics Review Board.
- iii. Death and life-threatening problems and serious adverse events or unexpected adverse events whether related or unrelated to the study must be reported to Daystar University Ethics Review Board within 72 hours of notification.
- iv. Any changes anticipated or otherwise that may increase the risks or affected safety or welfare of study participants and others or affect the integrity of the research must be reported to Daystar University Ethics Review Board within 72 hours.
- v. Clearance for export of biological specimens must be obtained from relevant institutions.
- vi. Submission of a request for renewal of approval at least 60 days prior to expiry of the approval period. Attach a comprehensive progress report to support the renewal.
- vii. Submission of a signed one-page executive summary report and a closure report within 90 days upon completion of the study to Daystar University Ethics Review Board via email [duerb@daystar.ac.ke].

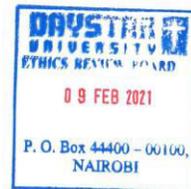
Prior to commencing your study, you will be expected to obtain a research license from National Commission for Science, Technology and Innovation (NACOSTI) <https://oris.nacosti.go.ke> and other clearances needed.

Yours sincerely,

Sr. Prof. A. L. Lando PhD
Chair, Daystar University Ethics Review Board

9th FEB 2021

Encl. Review Report



Appendix D: Research Permit



NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY & INNOVATION

Date of Issue: **02/March/2021**

RESEARCH LICENSE



This is to Certify that Mr. Francis Wachira of Daystar University, has been licensed to conduct research in Nairobi on the topic: MEDIA AESTHETICS COMPONENT OF ADVERTISING COMMUNICATION AND CONSUMER RIGHTS VIOLATION: A STUDY OF SELEGTED-TV ADVERTS for the period ending : 02/March/2022.

License No: **NACOSTIP/21/9171**

Applicant Identification Number: **623616**

Director General
NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY & INNOVATION

Verification QR Code



NOTE: This is a computer generated License. To verify the authenticity of this document Scan the QR Code using QR scanner application.

Appendix E: Plagiarism Report

Francis Wachira Thesis - 23-10-2021

ORIGINALITY REPORT

10%	9%	2%	5%
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

PRIMARY SOURCES

1	advertisingstandards.or.ke Internet Source	1%
2	www.researchgate.net Internet Source	1%
3	onlinelibrary.wiley.com Internet Source	<1%
4	kenyalaw.org Internet Source	<1%
5	Submitted to Mount Kenya University Student Paper	<1%
6	researchspace.ukzn.ac.za Internet Source	<1%
7	strategicjournals.com Internet Source	<1%
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