



CASE REPORT

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| 1. Complaint reference number | 11/09 |
| 2. Advertiser | Animal Liberation |
| 3. Product | Public Awareness |
| 4. Type of advertisement | Radio |
| 5. Nature of complaint | Violence Other – section 2.2
Other - Causes alarm and distress |
| 6. Date of determination | Wednesday, 21 January 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This radio advertisement from Animal Liberation opens with the sound of a cow. A voice over explains that in the Australian dairy industry it is legal to kill a one day old calf and that the productive life span of a cow is reduced through back-to-back pregnancy and diet. It then says that consuming dairy products adds to the cruelty and asks listeners to visit a dairy cruelty website for help with cutting dairy consumption. It then says: "Cut dairy, cut cruelty" and provides the web address.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

I object to the ad because I believe it may cause alarm and distress to children. It also makes false and misleading claims about the dairy industry which offended me even though I am not a dairy farmer and also portrayed farmers as cruel and uncaring which is far from the truth. Dairy products are well known to be an essential part of a healthy diet and the ad discourages dairy product consumption.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

It appears your Board only deals with section 2 of the AANA code of Ethics and not section 1 which deals with truth and accuracy. I didn't understand this to begin with, but now its clear. In deciding whether to subject our ad to your judgement, I have looked at your judgments in relation to MLA advertising, in particular 110/06 (the Sam Neill Evolution Ad) and 152/06 (Sam Neill library ad). The implication of these ads, that you need red meat to be smart, is pretty clear. Its what gives the ads their power. The fact that this is imply rubbish seems unknown to you and it seems you accepted uncritically the evidence" of MLA. The fact that you argued that the ad "does not specifically state that people who do not eat red meat are less intelligent" shows a basic ignorance of how advertising frequently works which is of serious concern in the present situation. The ads very clearly imply that without red meat you risk being stupid -- vegetarians and vegans quite rightly regard this as offensive, and given the focus on young children and families, the MLA ads also carry an inference that failing to feed your children red meat makes you a bad parent. Happily this is false, but we find the consistent promotion of falsehoods through advertising to be repugnant.

I made a complaint to the ACCC about the Sam Neill ads and my judgment was that their ability and willingness to understand and investigate the science of the issues was dismal. To be brief, a

babies brain grows most rapidly during the first 12 months of life and this growth period determines the final adult size. Do you know any babies eating red meat during the first 12 months? I could go into the genetics of brain growth in some detail, but the MLA ads are so obviously rubbish that it shouldn't be necessary. But organisations like yours and the ACCC allow this offensive and false propaganda to promote a habit which gives thousands of Australians bowel cancer every year, not to mention the vast bulk of the 40,000 major heart operations annually.

In summary, we have no confidence in your ability to reliably adjudicate on any possible breach of the code of the ethics and we will not be participating in any process involving your board.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

Before considering the substance of the complaint the Board noted with concern the advertiser’s inadequate response suggesting its proposed non-compliance with the Board’s determination process. The Board expressed disappointment at the organisation’s obvious unwillingness to participate in the self-regulatory process that aims at upholding ethical behaviour in advertising across Australia. The Board noted that a copy of the advertisement had been obtained by the Advertising Standards Bureau and that the Board should consider the complaint regardless of the advertiser’s response.

The Board noted the complainants’ concerns that the advertisement may cause alarm and distress to children and portrayed dairy farmers in a negative manner.

The Board noted that an advertisement’s content is not in breach of the Code merely by representing a particular point of view or ideology that other members of the community may not agree with or that might upset some members of the community. The Board noted that the advertisement represented the views of a particular group and that alternative viewpoints also have the right to be advertised.

The Board considered the application of Section 2.2 of the Code, relating to violence and Section 2.1, relating to discrimination and vilification.

The Board noted that the advertisement used shock tactics to sell a political message and direct people to the advertiser’s website. However, the Board considered the tone of the advertisement was unlikely to cause alarm to children. The Board determined the advertisement did not present or portray violence in contravention of Section 2.2 of the Code.

The Board also considered whether the advertisement vilified dairy farmers as a section of the community. The Board noted that the statements made in the advertisement were presented as facts applying to every dairy product and all dairy farmers. However, the Board noted it was not qualified to comment on the accuracy or otherwise of the material presented.

The Board considered the statements made in the advertisement were certainly offensive to the dairy industry as a whole and labeled all dairy farmers with the same broad brush, without qualification or exception. In particular, the reference to cows being “brutally” killed had strong implications for dairy farmers. However, the Board considered this did not of itself amount to discrimination or vilification of a group on the basis of occupation and found no breach of Section 2.1 of the Code.

The Board also considered whether the advertisement contravened prevailing community standards on health and safety under Section 2.6 of the Code. The Board noted that the advertisement could cause alarm and distress for members of the general community. However, the Board determined there was no identifiable community standard breached by the advertisement’s message about dairy products.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.