



CASE REPORT

1. Complaint reference number	62/09
2. Advertiser	Kia Automotive
3. Product	Vehicles
4. Type of advertisement	Pay TV
5. Nature of complaint	Discrimination or vilification Nationality – section 2.1
6. Date of determination	Thursday, 12 February 2009
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for Kia's Cerato vehicle shows scenes from several fictional automotive 'competitors' of Kia. The scenes show people from several nationalities including Japanese, German and French spies finding out about the new vehicle and reporting to the head of the fictional company about the vehicle's features. The advertisement ends with the Kia logo and a voice over which says: "All new Cerato".

THE COMPLAINT

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

Racial bias.

The racial bias I find very disturbing. Specifically the Germans which are represented as vicious nazis. I feel we should have moved on from that stereotype.

THE ADVERTISER'S RESPONSE

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

We have considered the complaints and the advertisements in question in light of the provisions of the AANA Code of Ethics (" the Code "). We note that the nature of the complaints relate generally to " discrimination " and specifically to the concern that the ad in question contains racial discrimination against German people. We have carefully considered the Code, and have assessed the provisions against the content of these advertisements. We find that the advertisement does not breach the Code on any of the grounds set out in the same.

Looking at the Code, Provision 2.1 provides that advertisements shall not " portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief " . We note that the advertisement in question depicts a fantasy scenario meant to be reminiscent of " cloak and dagger " spy thrillers. The characters are all depicted as employees of either German or Japanese car companies which are the main rivals of Kia, and are all discussing what they have secretly learned of Kia ' s new " Cerato " vehicle. The idea of the advertisement was that Kia ' s new " Cerato " vehicle is so impressive, that Kia ' s competitors are going to extreme lengths to find out about it.

We note that there are certain scenes where certain characters appear worried, concerned, frustrated or angry at how the Kia " Cerato " appears to outperform their own products. However, we note that in none of these scenes do the characters appear violent, threatening or aggressive towards one another. At most, they appear frustrated at their competitor' s success. We also note

that at no time does the advertisement imply or express any idea that this behaviour is directly tied to the character's ethnic background - rather, the characters from a number of different backgrounds are featured. The use of particular nationalities is used solely as a means to identify the characters with the vehicles manufactured by Kia's competitors, namely those of European or Japanese origin. The intention is for consumers to make the connection with these vehicles without the need for any direct reference to particular brands or manufacturer names. A key part of the message is that the introduction of the new " Cerato " has its competitors incensed and anxious, in an unprecedented way, and that they are now paying close attention to Kia. We note that the complainant specifically objects to the use of " Hitlerian language and accents to denigrate German people and products " . We are unsure as to which exact scene the complainant is referring to, but can estimate from their reference to " Hitlerian " or " Hitler " that they may be referring to the scene in which a German motor executive is expressing his frustration to his board members in the board room. We note that this scene in no way resembles any speech or public appearance by Adolf Hitler, and that the character in no way resembles Adolf Hitler. It was not our intention at any point to invoke any imagery of Adolf Hitler or Nazi Germany in general, and there is nothing in the advertisement which contains any reference to the same. We note that the characters in the advertisement are shown to be speaking in their first language, of either German or Japanese. We note that foreign language segments were all accurately translated with English subtitles. In our view, the mere depiction of a foreign language being spoken does not amount to racial discrimination or vilification.

Similarly, showing an identifiable German person also does not amount to racial discrimination or vilification on its own.

Additionally, we note that the complainant also claims that the German characters are depicted as " disreputable " and behaving " unacceptably " . We note that all characters in the advertisement are dressed in neat, business attire designed to be reminiscent of business executives. Additionally, we note that no immoral or illegal activity is undertaken by the characters depicted in any scene. They are behaving in a manner that would be consistent with their characters, representing concerned competitors of Kia, in the context of an edgy film-like production. These are reactions that may be true for people of various origins.

In summary, in our view, none of the above constitutes a portrayal which discriminates against or vilifies any German person. Although not raised by the complainant initially, we also note that the same considerations could also apply to people of other identifiable backgrounds in the advertisement, such as Japanese people.

Obviously the intention was not to condone or encourage discrimination or vilification of German people in any sense. In our view, a reasonable person would not view the advertisement as discriminating against or vilifying German people.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code") and the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (the "FCAI Code").

The Board noted that the advertisement is for a motor vehicle. The Board considered that the advertisement did not depict any material that was in contravention of the provisions of the FCAI Code.

The Board then considered the advertisement under the provisions of the Code of Ethics.

The Board noted the complainants' concerns that the advertisement denigrated people from Germany and considered the application of Section 2.1 of the Code, relating to discrimination and vilification on the basis of nationality.

The Board noted that the advertisement depicted a variety of nationalities, supposedly representing automotive executives from countries recognised for their association with motor vehicle manufacture. The Board noted that the people from each country were presented as car manufacturing executives of the various nationalities who were viewing the Kia vehicle specifications in a serious manner and with apparent concern. The Board considered the depictions were not derogatory or denigrating of any of the nationalities, but were simply aimed at emphasising the rival vehicle manufacturer's high level of concern that they could not match the new Kia model.

The Board found that the advertisement's depiction of rivals from particular nationalities did not vilify or discriminate against people of those nationalities and that there was no contravention of section 2.1 of the Code.

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