



CASE REPORT

1. Complaint reference number	12/09
2. Advertiser	Fosters Australia, Asia Pacific
3. Product	Alcohol
4. Type of advertisement	TV
5. Nature of complaint	Discrimination or vilification Race – section 2.1
6. Date of determination	Wednesday, 21 January 2009
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for Fosters Victoria Bitter features the cricketer, Shane Warne, sitting in a sports stadium grandstand, introducing the viewer to the VB Top Ticket competition to win tickets to the 2009 Ashes in England. A graphic appears on the screen "VB Top Ticket. 5 tickets. 5 awesome trips." Warne then greets a "competition winner", played by a mannequin wearing a sign which says "this could be you". This is followed by a series of vignettes of the "winner" being shown the sights of London by a group of men wearing red and white clothing, representing English cricket supporters. They visit the London Eye, the Houses of Parliament, Abbey Road, a red phone box, travel in a London cab. Finally, the English supporters and the mannequin "competition winner" join Warne at the Cricket Ground where they drink cans of Fosters VB. Warne's voiceover says "Buy a slab of VB or VB Gold and go to the website to enter and that could be you under a smelly Pom's armpit."

THE COMPLAINT

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

The advert used the words 'Pom's smelly armpit'. I thought the word Pom had been banned in advertising. Putting the words Pom and smelly together is racially offensive. Earlier in the year or maybe last year there was some other similar advert going on about a 'Pom's backyard' depicting a small, horrible run down garden which is not at all typical of an English garden. I am sick to death of these adverts being allowed in Australia. Nobody would put on advert saying an Italian's smelly armpit or a Croatian's backyard while showing a really crummy picture. It isn't funny. It's racist, offensive and extremely childish. Channel 9 and VB should be ashamed of themselves indulging in this kind of behaviour in 2008. I'm looking forward to the day when all the older people who think it is OK to call English people smelly are gone, so let's not pass this kind of racism down to the next generation please.

The reason should be self evident. it is derogatory, racially offensive and suggestive that all English people smell. The inference and use of Stinking in relation to a race of people is a thinly veiled attempt at racial stereotyping e.g. the old erroneous adage the English do not wash. No race of people should be treated in such a manner, indeed it is highly unlikely that Foster's would ever do so. I have been here 39 years and have never known them to denigrate any other race in this fashion than the English. Why is there this double standard? How can this be allowed to happen. BPARD calls on the Advertising standards board to demand an immediate end to Racially offensive content in advertising and to demand they issue an immediate nationwide public apology. If you have the power to impose a fine on these people, then do so. We do not seek any monetary gain, however, a charity would welcome a boost in funding. May we suggest Research into Childhood Leukaemia.

THE ADVERTISER'S RESPONSE

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

Thank you for your email dated Friday 9 January outlining a complaint against a television commercial (TVC) for VB which raises concerns under section 2 of the AANA Advertiser Code of Ethics.

First a short synopsis of the advertisement in question: the advertisement is designed to promote a VB cricket promotion whereby one lucky person will win tickets to the cricket in England for the 2009 Ashes. The TVC features Shane Warne the "King of Spin" and most of the action centres on a few members of the (self titled) Barmy Army hosting our winner (played by a mannequin) in London, highlighting various elements of the prize i.e. having a Saville Row suit made and attending a cricket match at the famed Lord's Cricket Ground. Whilst the complainants raise a number of concerns about various topics, for the sake of clarity we have responded in two sections as they relate specifically to the VB TVC 1/ the use of the word Pom "being banned" and 2/ to the concern of the ad being "racist, offensive and extremely childish" in relation to Section 2.1 of the code.

1/ The word Pom: The complainant argues that "the word Pom had been banned in advertising...". This is not the case, in fact historically it has been ruled (by the Advertising Standards Bureau) that the word Pom, in an appropriate context (i.e. the Ford and Lion Nathan campaigns) - such as when associated with cricket and when a good natured tone is employed - is acceptable.

2/ Section 2.1 The humorous/tongue in cheek tone is set from the start when Warne is seen introducing himself to a store mannequin playing the role of our competition winner. The mannequin then tours the sights of London with members of the Barmy Army. It shows the group, amongst other things, eating together, shopping together, squeezing into a black cab and finally cheering at the cricket. Not only humorous, we would contend that it depicts very friendly relations/camaraderie between the two countries.

Given the above, we believe our advertisement is not in breach with section 2.1 of the code.

The final scene (the one in contention), shows Warne and the mannequin (sitting directly below members of the Barmy Army, specifically underneath the armpit of one member who has his arms raised) at Lords with the cheering members of the Barmy Army: "This could be you under a smelly Pom's armpit" (one complaint incorrectly states the word was "stinking"). The phrase achieves two things: 1/ it is colourful and humorous language to illustrate that the winner and his mate will be in the 'thick of it' at Lords in England at a sold out game surrounded by 1000s and 1000s of cheering Poms. So there is a literal context where the phrase is a description of part of the experience. 2/ Uses language ("Pom") that is common to cricket and everyday life. Furthermore this language has been deemed acceptable in advertising (if used in an appropriate context). In this case the word is coupled with inoffensive language, more so given the context which it is used in (the literal context as outlined above in point one). The language might not be to everyone's taste however we strongly argue that it does not discriminate against or vilify the English. Further to this point the TVC does not "make a distinction as in favour of or against a person or thing" (as defined by The Macquarie Concise dictionary - 3rd edition) so it could not be said to discriminate nor does it "speak evil of" so it could not be said to vilify. It's also important to view the ad in its entirety and from an 'average' person's viewpoint and not specifically from a vested viewpoint that a specific interest group may have.

THE DETERMINATION

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

The Board considered carefully the complainant's comments that the use of the word 'Pom' and the reference to a 'smelly Pom's armpit' is a racial slur.

The Board considered the nature and usual intention of the word "Pom" when used in Australia and agreed that the term is used largely with non-hostile, playful and often affectionate intentions. The Board took account of the advertisement's context - namely cricket - and noted that there has been an historical, affectionate rivalry between the two countries and no recent history of racial antagonism.

The Board felt that in Australia the term 'Pom' is used in a manner that is not meant to be hostile or

vilifying, but rather is consistent with Australian humour, particularly in the context of cricket.

The Board then considered the reference to a 'smelly Pom's armpit'. The Board noted that this phrase is used at the point of the advertisement where the group is seated at the cricket. The Board agreed with the advertiser's comment that the reference is a reference to a hot sweaty day at the cricket. The Board considered that the reference was not intended to be offensive or vilifying of British people.

On balance, with regard to prevailing community standards, the Board concluded that the use of the word "Pom" and of the phrase 'smelly Pom's armpit' was not regarded by the wider Australian community as discriminatory or vilifying of persons of British extraction. Hence the Board found that the advertisements in question did not breach Section 2.1 of the Code.

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