



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0011/11</b>
<b>2</b>	<b>Advertiser</b>	<b>Optus Communications</b>
<b>3</b>	<b>Product</b>	<b>Telecommunications</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>09/02/2011</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

Advertising to Children Code 2.6 Social value  
2.2 - Violence Cruelty to animals

### DESCRIPTION OF THE ADVERTISEMENT

Two Computer Generated Image (CGI) crocodiles are filmed playing a round of tennis on the Australian Open centre court. The crocodiles use their tails as racquets, but instead of hitting a tennis ball, they hit a CGI squirrel. The TVC shows an Optus replay of a point in dispute (a line call) with a voice-over promoting watching the Australian Open streamed live 'on your compatible Optus 3G mobile'.

### THE COMPLAINT

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

*I realise this is animation but being presented on a tennis court identical to that of the main program (a tennis tournament) is nothing like a cartoon show in which this might be done for comic effect and the context is well established. There is no context here other than we're playing tennis, there's a quick break between games, let's get someone on for a bit of entertainment and why not use a live animal as the ball - that'll be a laugh..*

*The whole concept 'flies in the face' of people who are trying to prevent cruelty to animals. The images portrayed are quite lifelike, even though they are computer manipulated. One could think they were real crocodiles.*

*The objection is that young children may not be able to discriminate what is real. When it comes to cartoons and basic animation children can identify what is unreal.*

*I find it offensive to use this material at family viewing time. It may be ok in adult time slots but even then it is still offensive to people who find it is offensive to see interaction between lifelike aggressive large animals bullying smaller creatures so that a company can profit. Optus need to realise this type of advertising is not in their best interests. This is 'bottom of the barrel' advertising!*

*This advert appears to be targeted at a young audience and is in extremely BAD TASTE to show such a thing. We see far too often on our news bulletins the abuse of animals e.g. "Quokka Soccer" on Rottnest Island and this OPTUS advert is only trivializing abusive behaviour towards animals.*

*This ad depicts violence and cruelty toward animals. The use of a possum as a tennis ball implies that it's OK to hit or otherwise brutalise small animals. That the possum is shown to be unharmed and seems to enjoy being whacked across a tennis court further suggests that treating small animals this way is acceptable, and that they might like it. It's irresponsible of Optus to use images of an animal being used as a disposable object because such images directly and indirectly influence community attitudes toward animals and how we treat them. I strongly object to this advertisement and believe Optus should withdraw it from TV. There are many other ways to promote mobile coverage of the Australian Open that don't show a defenceless marsupial being bashed repeatedly across Rod Laver Arena.*

*I object to this ad due to the use of an animal as a tennis ball.*

*I'm concerned at the suggestion that the sugar glider enjoys being bashed around the court in this ad. We already have problems with animal abuse and horrors like quokka soccer and I think this ad gives the wrong idea about kicking around small animals. It upsets me every time I see it.*

*I think it gives the message that animal cruelty is OK. I know it is a cartoon but surely they could use a tennis ball and not another animal.*

*The Australian Open is broadcast worldwide and here we Australians are being shown, humiliatingly, as mindless and uncaring sub-humans who accept abuse of animals is amusing and who - obviously - couldn't care less for the pain and suffering such an act would cause any animal so used. Frankly the crocodiles don't fare any better either.*

*In reality, if the people at the advertising agency and at OPTUS responsible for this grossly offensive add were caught chucking a living sugar glider around they would be arrested, prosecuted and probably receive a custodial sentence. Why then is this ad allowed when the actions portrayed on our TV are certainly not accepted nor allowed by the general population or the Law. My grandchildren myself my family and all of our friends are truly disgusted that OPTUS should think this add is ok and that the powers that be should allow it to be aired.*

*This advert depicts an act of gross animal cruelty in using a small animal as a 'ball'. Even in caricature or as a comic an advert should not be able to display a behaviour that if carried out in reality would be both illegal and barbaric.*

*I feel that it is completely inappropriate to depict the use of a living creature in any way that is violent or cruel.*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*Optus disagrees that the TVC depicts cruelty to animals. While the sugar glider possum's function in the game of tennis is to act as the tennis ball, the TVC shows the sugar glider having fun, wilfully participating in the game – and even cheekily stretching out one of his limbs to make sure a point was scored. The sugar glider is graphically shown to be having fun - his face is shown smiling as he flies through the air. The audio used in the TVC also demonstrates that the game is fun for all involved, including the sugar glider, who you clearly hear squealing and whistling with joy as he moves through the air. To reinforce the fun nature of the game, the sugar glider is shown enjoying a cool drink in the shade after the exhausting match.*

*Optus disagrees that the TVC is so life-like that a child would not be able to discern whether the crocodiles or sugar glider are real. The TVC is obviously made up of computer-generated images and we went a step further to show the crocodiles and sugar glider smiling and grinning throughout the game. Crocodiles and sugar gliders do not smile and grin in real life and children are taught this from an early age.*

*Optus disagrees that the TVC would cause children stress. The sugar glider is always shown to be having a good time and we would expect children to see and hear that enjoyment.*

*With reference to Section 2 of the Code, Optus strongly believes the TVC adheres to that Section, where relevant. Section 2.1 is not relevant (the TVC is not concerned with discrimination or vilification of groups within society). Section 2.2 is also irrelevant (a game of tennis, despite its competitive nature, is not violent). Section 2.3 is not relevant (the TVC does not portray sex or nudity). The TVC does not breach Section 2.4 because it adheres to the AANA's Code of Advertising & Marketing Communication to Children (Children's Advertising Code) – any claim that the TVC breaches 2.2 of the Children's Advertising Code fails because the TVC does not mislead or deceive children and is not ambiguous. In fact, the TVC clearly shows animated crocodiles and a sugar glider participating in a friendly, but competitive game of tennis.*

*In relation to Section 2.5 of the Code, the TVC does not use inappropriate language. Section 2.6 of the Code is also not relevant because the TVC does not depict material contrary to prevailing community standards on health and safety. Section 2.7 of the Code is also not relevant because the TVC does not depict motor vehicles. Finally, Section 2.8 of the Code is also not relevant because the TVC does not depict food.*

*As stated, Optus disagrees that the TVC's depiction of the sugar glider as a tennis ball is promoting animal cruelty. The TVC is about animals having fun with each other, not animal cruelty. We disagree that an analogy can be drawn between what is depicted in the TVC and what can only be deemed a cruel and despicable act occurring on Rottnest Island.*

*In conclusion, we would like to point out that Optus has a long history of supporting organisations that care for and promote the welfare of animals. We are the proud sponsor of the Australian Wildlife Conservancy and in April 2010 became a partner of leading international animal welfare group, the World Society for the Protection of Animals (WSPA), calling for Australians to help put an end to whaling by supporting the 'Give Whales a Voice' campaign.*

*We pride ourselves on our commitment to animal welfare.*

## **THE DETERMINATION**

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

The Board noted complainants' concerns that the advertisement depicts and condones violence towards animals.

The Board noted section 2.2 of the Code which requires that 'advertising or marketing communications not use violence unless it is appropriate in the context of the advertised product or service.'

The Board noted the advertisement features two crocodiles playing tennis using their tails as racquets and a sugar glider as a ball.

The Board noted the advertiser's response that the animals in the advertisement were clearly computer generated and that they are shown to be enjoying themselves, with the sugar glider making appreciative noises as it travels across the tennis court.

The Board considered that most reasonable members of the community would consider this advertisement as an unreal situation, and that most people would appreciate the humour of the advertisement.

The Board determined that the advertisement did not breach section 2.2 of the Code as it does not depict realistic violence or condone or encourage violence against animals.

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