



Case Report

1	Case Number	0019/16
2	Advertiser	Meat & Livestock Australia Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	Internet - Social
5	Date of Determination	18/01/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

- Other Other - miscellaneous
- Other Social Values
- 2.1 - Discrimination or Vilification Ethnicity
- 2.1 - Discrimination or Vilification Lifestyle Choices
- 2.1 - Discrimination or Vilification Nationality
- 2.1 - Discrimination or Vilification Other
- 2.1 - Discrimination or Vilification Political belief
- 2.3 - Violence Bullying
- 2.3 - Violence Causes alarm and distress
- 2.3 - Violence Causes alarm and distress to Children
- 2.3 - Violence Cruelty to animals
- 2.3 - Violence Hooliganism-vandalism-graffiti
- 2.3 - Violence Violence

DESCRIPTION OF THE ADVERTISEMENT

The advertisement features newsreader Lee Lin Chin promoting the consumption of lamb on Australia Day and giving the instruction to commence 'Operation Boomerang' which is the recovery mission of rescuing Australians from various countries so they can eat lamb on Australia Day. The scenes depicted involve a military style swat team performing repatriation exercises to rescue these people and they rescue a man from offices in Japan, a dentist in the United States, a Rugby player in England and an Ex-cricketer in Indonesia. There is a scene where a man declares he is Vegan as they enter his apartment.

THE COMPLAINT

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

In my view, the ad promoted violence and discriminated against vegans and other groups. We know that Meat and Livestock are violent towards animals and now they are directing their violence towards humans.

This is highly violent advert that is inappropriate during a good advert in an environment with terrorism in the news.

I am aware the target market for this ad is meat eaters, but it also tells meat eaters to look down on meat eaters and consider them un-Australian. So Buddhists, Hindus, people with ethics or moral reasons for not eating animal protein, are being shown on national TV as not being Australian. How can that be allowed?

This ad suggests that people who are vegan deserve to have their house burnt down. It is mocking the vegan lifestyle and offensive to all people who respect animals.

1. Referring to this ridiculous concept as "Operation Boomerang" for a day that many Aboriginal and Torres Strait Islanders refer to as Invasion Day, and mourn as a representation of the loss of their culture and the genocide of their people, is both cultural appropriation and extremely distasteful.

2. Year after year, these ads insult veganism and vegetarianism. This ad, this year is particularly offensive given the bushfires occurring in Waroona and Yarloop in the south of WA. Depicting a vegan's lounge room become engulfed in flames is not funny at the best of times and is again in very bad taste given the current climate of over 100 houses and 2 lives lost.

3. I struggle to comprehend why it is acceptable for an advert to attack a minority, year after year based on their food choices? It would not be acceptable to make comment on Islamic individuals refusing to eat Pork? It would not attack Judaism for animals that aren't kosher or Hinduism for not eating cows? Why is it acceptable to bully those who peacefully choose not to consume the flesh of dead animals?

THE ADVERTISER'S RESPONSE

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

We have considered the allegations, and for the reasons set out below, submit that the complaints should be dismissed.

The Advertisement forms part of the twelfth annual MLA Australia Day campaign. The MLA Australia Day advertisements are well-established, highly-anticipated and well-received for their satirical, tongue-in-cheek expression and MLA's treatment of the 2016 iteration is no exception. MLA notes that the ASB has historically taken a robust approach to the interpretation of the content of these advertisements (see, for example, 0033/08).

This year's campaign is premised on the tagline "You Never Lamb Alone on Australia Day."

The Advertisement depicts a far-fetched military-style operation to bring expatriates back to Australia on Australia Day so that they can enjoy lamb with their compatriots. The Advertisement depicts fictional scenes in multiple cities around the world where everyday Aussies are repatriated for Australia Day as part of "Operation Boomerang". The Advertisement does not have a CAD reference as it was created for and published only on social media platforms and has not been broadcast by MLA or at its request on free-to-air commercial television. MLA is aware that, despite MLA not having broadcast the Advertisement on television, the content of the Advertisement has been reported and reviewed on commercial television networks. MLA has no input into the editorial or programming decisions of such commercial television broadcasting networks. For completeness, the CAD reference for the 30 second television commercial which forms part of the same campaign is G2KF5FDA and was given a rating of G (TVC).

The complaints

The complaints allege that the Advertisement is discriminatory, violent and contrary to Prevailing Community Standards on health and safety.

The ASB has identified a number of potentially relevant provisions of Section 2 of the AANA Code of Ethics (the Code), which incorporates the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) and the AANA Code for Advertising and Marketing to Communications to Children.

MLA takes these allegations very seriously. However, on detailed review contends that the complaints should be dismissed.

The Code

Section 2.1 of the Code states that "Advertising or Marketing Communications 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, gender, age, sexual preference, religion, disability, mental illness or political belief."

Section 2.3 of the Code states that "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised."

Section 2.6 of the Code states that "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety."

The Food Code

Section 2.1 of the Food Code states that "Advertising or Marketing Communications for Food or Beverage Products shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene Prevailing Community Standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits."

Submissions

MLA submits that the Advertisement is a continuation of MLA's long-standing campaign strategy of exaggerated and fanciful pleas for meat eaters to eat lamb on Australia Day. The ASB has previously commented that MLA's "Australia Day advertisements are now well known for their irreverent tongue-in-cheek humour during their short term January campaign" (see 0024/11, 0020/10 and 0027/09).

Some of the complaints raise matters of taste. Over-the-top humour will always be seen as in bad taste by some and as involving "cheap shots" to get a laugh. However, as MLA has previously noted in response to similar complaints, laws and codes dealing with discrimination and vilification are drafted to balance the need to preserve the general right to free speech with appropriate prohibitions on certain types of speech. They do not extend to

prohibit the expression of opinions or jokes about lifestyle choices such as dietary preferences. Those opinions and associated statements do not have to be in good taste and so it is possible that those with differing views see them as being in bad taste or offensive to them or disrespectful. As a result vegetarians and vegans can and do make disparaging comments in their advertising about meat eaters.

MLA is of the view that a healthy balanced diet that includes recommended serves of red meat is the best dietary choice. Inclusion of red meat in the diet is also recommended by experts and supported by the Australian Dietary Guidelines. The laws and codes rightly give MLA considerable freedom to use humour, even of dubious taste, to communicate these messages.

MLA's Australia Day campaigns are designed to increase sales of lamb over the Australia Day long weekend and to generally raise the profile of lamb as a favoured Australian meat. Over the past twelve years, MLA has promoted eating lamb on Australia Day. In 2016, the satirical mission to bring expatriate Australians home so that they won't "lamb alone on Australia Day" is not a gratuitous attempt to offend those who do not eat lamb. Since the Australia Day campaign's inception in 2005, MLA has experienced a strong uplift in lamb sales for the campaign period. These results indicate that the playful, irreverent, humorous style of the campaigns featuring Australian icons and popular culture references are proving highly successful.

1.1 Alleged discrimination / vilification

(a) Vegetarianism, veganism and lifestyle choices

At the outset, MLA notes that the question of dietary choices is not one of the criteria on which people could be discriminated against or vilified in breach of Section 2.1 of the Code. Even if it was, we submit that the Advertisement does not discriminate against or vilify any particular person or group of people. This position has been supported by the ASB in similar decisions (see 0024/11 and 0013/14).

The Advertisement is clearly hyperbolic and sarcastic, using humour to promote lamb. The complaints are largely directed to one short segment of the Advertisement (timecode 1'08" to 1'20"), in which fake military operatives appear stunned when an expatriate informs them he is now a vegan. The mission to return this expatriate to Australia is aborted, the character of Commander Lee Lin Chin shakes her head in mock disappointment and exclaims "Vegans!" and the military operative over-dramatically flames a bowl of kale and tofu which is sitting on a coffee table in the expatriate's apartment.

MLA submits that the reasonable viewer understands the comical and fanciful nature of this segment of the Advertisement (in the context of the Advertisement as a whole) and would not perceive it to be an act of bigotry or the incitement of hatred towards members of the community with particular dietary preferences. It is clear that this particular fictional expatriate character is not an appropriate subject for the mission and will not wish to return home to Australia to eat lamb.

The target of the flamethrower, as further noted below, is a bowl of kale and tofu on a coffee table which is not located in close proximity to the character. The flamethrower is not directed at the fictional expatriate character, nor (obviously) any member of the community. The Advertisement is not to be taken seriously and its content is not a means of vilifying or defaming vegans or vegetarians.

(b) Religion, ethnicity, race, nationality and political belief

MLA submits that the Advertisement does not promote any act of prejudice on the grounds of

religion, race or political belief. As the ASB has previously held (0024/11 and 0013/14), the encouragement to eat lamb in the Advertisement does not vilify or discriminate against people on account of their religion, race or political belief as there is no serious disparagement of those who do not eat meat, particularly those who abstain for religious, cultural or political reasons. Furthermore, the Advertisement makes no mention of any religion, race or political party, whether specifically or in general.

Vegetarian and vegan dietary choices are not particular to one specific religion, race or political ideology. Vegetarians and vegans subscribe to different religions and ideologies or none at all so it cannot be said that the Advertisement discriminates against or vilifies a particular religion, race or political belief.

In addition, a small number of complaints claim that use of the fictional name "Operation Boomerang" is inappropriate or insensitive to indigenous Australians. Whilst acknowledging the indigenous heritage of the word "boomerang", MLA notes that the name of the fictional mission was adopted in reference to the colloquial meaning of the word as something which is expected to return (see by way of example the definition in the Macquarie Dictionary). The word "boomerang" is used commonly in Australia in this context and the fictional "Operation Boomerang" depicted in the Advertisement is intended to return expatriates to Australia.

Furthermore, MLA notes a handful of complaints suggest that the Advertisement negatively conveys Poland. MLA submits that this interpretation is unfounded. While the character of Commander Lee Lin Chin is shown to be unhappy in Warsaw, this is clearly due to the freezing temperatures and the fact that Ms Chin has to "lamb alone." The Advertisement does not present any disparaging messages about Poland or its people.

(c) Overall

We submit that the Advertisement does not promote any act of inequity or bigotry towards vegetarians, vegans, or those of particular religions, races or political ideologies. Similarly, it does not vilify or incite hatred towards any such members of society. MLA submits that any reasonable viewer would recognise this Advertisement, in line with previous MLA Australia Day advertisements, as involving satirical and exaggerated humour, and that individual segments of the Advertisement will be seen in this context.

Whilst there may be a number of viewers who do not find the Advertisement funny or tasteful, the Advertisement does not discriminate against or vilify the aforementioned groups. As the ASB has previously stated, MLA Australia Day commercials are "over the top and [are] not intended to be taken seriously by members of the community" (0020/10).

MLA also notes that several complaints propose hypothetical advertisements featuring various minority groups (replacing the fictional vegan expatriate character). MLA submits, as noted in 0210/15, that the role of the ASB is to consider each advertisement on its own merit and not to address hypothetical alternatives.

For these reasons, the Advertisement should not be considered to portray any discrimination or vilification on account of religion, race, political belief or any other social value.

We therefore submit that Section 2.1 of the Code has not been breached.

1.2 Violence

MLA submits that the Advertisement does not present or portray any act of violence which breaches Section 2.3 of the Code.

(a) Alleged violent behaviour

The complaints of violence relate to the scene identified above in which a fictional expatriate identifies his dietary choice as vegan and the fictional military operative over-dramatically flames a bowl of kale and tofu which is sitting on a coffee table in the expatriate's apartment. The scene is intended to be humorous and absurd, with the roasting of kale and tofu as a figurative nod to the increasing popularity of cuisines and dining options which may involve dietary choices other than meat, including lamb.

Many complainants have mistaken this scene as depicting the "torching [of] a vegan's house" or implying that "vegetarians should be killed". MLA strongly submits that no such message is conveyed. The scene clearly shows the bowl of kale and tofu being torched - there is no suggestion whatsoever that any violence or harm is directed towards the fictional vegan expatriate or the apartment itself. The target of the flame is the bowl of kale and tofu which is sitting on a coffee table several meters away from the character and not the vegan character or his apartment.

Reasonable members of the community will not perceive the far-fetched and satirical torching of the kale and tofu as an act of violence against a particular person or suggesting that "people who are vegan deserve to have their house burnt down." The reasonable viewer would not consider this scene to be realistic or a portrayal of violence, particularly in the context of the Advertisement's overall exaggerated tongue-in-cheek military tone which persists throughout the duration of the Advertisement. The Advertisement opens with large-scale exaggerated elements which "set the scene" for what is to come (mind-Winter Warsaw; an aircraft carrier at sea), adding scale and authenticity to the portrayal of this military operation which a reasonable viewer would ordinarily associate with an operation of this nature and scale. As the operation continues, the use of a flamethrower to torch a bowl of kale and tofu only serves to add to the overall far-fetched, satirical tone of the Advertisement. Viewers then witness the farcical rescuing of "Princess Mary" from the palace balcony and a covert operative Gary partially-emerging from the pool in Bali - further examples of military references which establish the context and tone for the whole Advertisement from start to finish. MLA takes its responsibilities under the Code seriously and by no means condones acts of violence or bullying.

To the extent the ASB were to consider the scene to involve a portrayal of violence, MLA submits it is justifiable in the context of the humorous, satirical and farcical military-style Advertisement which is not likely to cause alarm or distress to the reasonable viewer and campaign to encourage Australians to eat lamb on Australia Day (as was previously considered by the ASB in 0013/14).

For completeness, MLA notes that it did not and will not broadcast the Advertisement on free-to-air commercial television. The Advertisement was created for and published by MLA only on social media platforms (e.g. Facebook, YouTube) and other online platforms operated by MLA.

(b) Alleged cruelty to animals

A small number of complainants contend that the Advertisement encourages cruelty to animals. MLA submits that its promotion of the consumption of lamb on Australia Day does not constitute animal cruelty. Members of the community are entitled to have differing dietary preferences and MLA is clearly not prohibited by the Code from promoting the consumption of meat, including lamb.

1.3 Health and safety

(a) Alleged bullying / unsafe behaviour

MLA submits that the Advertisement does not promote bullying and is not in breach of Section 2.6 of the Code. The complaints of bullying and unsafe behaviour relate to the scene identified above in which a fictional military operative dramatically enters the vegan character's apartment. MLA contends that the reasonable viewer would appreciate the hyperbolic humour in this scene, particularly in the context of the overall Advertisement. The fictional military mission is clearly far-fetched and would not be perceived by the reasonable viewer as an act of or endorsement of hooliganism, vandalism or any other criminal or dangerous behaviour. As noted above, there is no suggestion whatsoever that any violence or harm is directed towards the fictional vegan expatriate or the apartment itself. One complainant also suggested that the entry of the fictional operatives from the glass ceiling in the Tokyo scene placed the "occupants at serious risk of injury." MLA contends that this particular scene is clearly fanciful and spoofy. The return of the Australian expatriate is the target of the fictional mission and the local businesspeople are not depicted to be in any danger. None of the occupants are harmed and a reasonable viewer would recognise the exaggerated nature of this scene (in the context of the Advertisement as a whole).

(b) Promoting a healthy balanced diet

A small number of complainants have suggested that the Advertisement promotes a food product that is harmful to consumer health. The Advertisement in no way suggests that lamb is only the food required to maintain a healthy diet, and the reasonable viewer would not take away this tenuous message. The Advertisement simply promotes the consumption of lamb on Australia Day and does not contain any health or nutrition content claims.

Nonetheless, MLA notes that:

i. A serving of lamb is a good source of iron, zinc, vitamin B12 and protein which are recognised as important for normal growth and development in children;

ii. The current Australian Dietary Guidelines published in 2013 by the National Health and Medical Research Council recommend that a diet include 65g per day or 130g every second day of cooked lean red meat such as lamb; and

iii. The Cancer Council continues to recommend a moderate intake of lean red meat, such as lamb, in accordance with the Australian Dietary Guidelines.

Accordingly, MLA submits that the Advertisement does not depict or encourage material contrary to Prevailing Community Standards on health and safety.

1.4 Exploitative and degrading

MLA notes that it has not been made aware of any complaints regarding alleged breaches of Section 2.2 of the Code. Nonetheless, MLA submits that the Advertisement does not contain material which could be considered exploitative and/or degrading in breach of Section 2.2 of the Code.

1.5 Sex, sexuality and nudity

MLA notes that it has not been made aware of any complaints regarding alleged breaches of Section 2.4 of the Code. Nonetheless, MLA submits that the Advertisement does not contain any material of a sexual nature and certainly not that which treats sex, sexuality and nudity with insensitivity to the relevant audience in breach of Section 2.4 of the Code.

1.6 Language

MLA notes that has not been made aware of any complaints regarding alleged breaches of

Section 2.5 of the Code. Nonetheless, MLA submits that the Advertisement does not contain any language that is inappropriate in the circumstances in breach of Section 2.5 of the Code.

Conclusion

In view of the above, we consider the complaints should not be upheld.

THE DETERMINATION

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

The Board noted the large number of complaints received about this advertisement. The Board noted a range of concerns from complainants and noted that the primary concerns under the Code of Ethics are that the advertisement is discriminatory towards people on account of them being vegan, on account of ethnicity with particular reference to the use of the term ‘operation boomerang’ and nationality. The Board noted complainant’s concerns that the advertisement also depicts violence, bullying behaviour and material contrary to prevailing community standards on health and safety.

The Board noted that it had previously considered similar advertisements (27/09, 20/10, 24/11 and 0013/14) for the same advertiser where it noted that “...the Australia Day advertisements are now well known for their irreverent tongue in cheek humour during their short term January campaign.”

The Board noted that in this instance the advertisement is a continuation of the irreverent theme used in past versions of the advertiser’s promotion of lamb for Australia Day and considered that whilst some members of the community could find the advertisement to be in poor taste, the issue of taste does not fall under the Code of Ethics and the Board is unable to consider this aspect of the complaints when making its determination. The Board noted that its determination is based only on the provisions of the prevailing advertiser Codes.

The Board viewed the advertisement and noted the advertiser’s response.

The Board noted that the advertisement features newsreader Lee Lin Chin promoting the consumption of lamb on Australia Day and giving the instruction to commence ‘Operation Boomerang’ which is explained to be the recovery mission of rescuing Australians from various countries so they can eat lamb on Australia Day. The scenes depicted involve a military style swat team performing repatriation exercises to rescue these people.

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that ‘advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.’

The Board first considered complainants’ concerns that the advertisement is discriminatory towards Indigenous Australians because of the reference to ‘Operation Boomerang.’

The Board noted that most members of the community would be familiar with the origins of a boomerang and its connection to Indigenous Australians. The Board also noted however the Macquarie Dictionary definition of boomerang to include a colloquial meaning of ‘something that is expected to be returned.’ The Board noted that other than the use of the word

Boomerang the advertisement does not depict, refer to or parody any indigenous Australians or Aboriginal culture. In the Board's view the use of the tagline or phrase "Operation Boomerang" as used in the advertisement is not a reference to Indigenous Australians but is meant as a reference to something which is to be returned. The Board noted that the fictitious mission is to rescue Australians from various places around the world and return them to Australia for Australia Day celebrations and considered that that is clearly what is being undertaken in the advertisement and is not vilifying Indigenous people in any way.

The Board noted complaints that the use of an Aboriginal term in conjunction with Australia Day is inappropriate due to the consideration by many people (Indigenous and non-Indigenous) of Australia Day as a day that is not a day of celebration for many Australians.

The Board noted this concern but considered that the use of the term boomerang in the context of this advertisement is not demeaning to Indigenous Australians and is a clear humorous reference to returning Australians living overseas to Australia.

The Board considered that the use of 'Operation Boomerang' is not discriminatory towards or vilifying of any people on account of their race, ethnicity or nationality.

The Board then considered the issue of 'veganism' and whether 'vegans' are a section of the community within the terms of section 2.1 of the Code. The Board noted that section 2.1 prohibits discrimination or vilification on the basis of 'race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

In terms of 'religion', the Board noted complainants' concerns that veganism is part of Buddhism and meat avoidance is part of Orthodox Christian beliefs. The Board also noted the AANA Practice Note which clarifies that: "political belief" includes 'support for or opposition of a particular political party or ideology.'

The Board considered the Macquarie Dictionary definition for ideology and noted that the Dictionary defines ideology as:

1. The body of doctrine, myth and symbols of a social movement, institution, class or large group.

The Board considered that the ideology of the vegan community meets the definition of a social movement or group which shares a doctrine as stated within the Practice Note. The Board accepted that veganism can be a choice for religious reasons and that it is also an ideology shared by a group of people.

The Board agreed that the reasons behind a person's veganism are varied but in the context of the Code, the consideration of vegans as a group can reasonably be considered under section 2.1 of the Code. The Board considered therefore that 'vegans' are a section of the community that section 2.1 prohibits advertising representing in a vilifying or discriminatory manner.

The Board noted the complainants' concerns that the advertisement discriminates or vilifies those who are vegan. The Board then went on to consider whether the depiction of vegans in the advertisement amounted to a depiction that discriminates against or vilifies vegans.

The practice note to the Code regarding section 2.1 of the Code states that:

"This section describes types of behaviour and restricts depictions of those types of behaviour against people within certain groups.

The types of behaviour are:

Discrimination – unfair or less favourable treatment

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule.'

The Board noted the particular scene in the advertisement where the rescue group enter the home of a man to rescue him and return him to Australia. The man declares that he is now vegan. The Board noted that the declaration by the man is clear and the operatives look stunned by his comments.

The Board noted that the Commander gives direction to “Abort! Get ‘em out of there!” and in the control room, Lee Lin Chin drops her head and gives a slightly exasperated sigh saying “vegans.”

The Board considered that the response from Lee Lin Chin to the news of the man being vegan is one of disappointment and a sense of failure associated with the whole operation and not being able to bring this patriot back to Australia because he is now vegan.

The Board noted that the advertisement as a whole is intended to be humorous and has a movie-style theme to it. The Board noted that it had previously considered advertisements for other products (Budget Direct Captain Risky 0024/15) where the comedic and unrealistic nature of the advertisement as a whole created an overall tone that was humorous and fantastical and that the movie-style nature of the advertisement was evident to viewers.

In the Board’s view, the comedic nature of this advertisement is clear and is not intended to discriminate or vilify a section of the community.

The Board noted that the focus of the advertisement is to encourage people to eat lamb on a specific day of the year and considered that the advertisement does not suggest you should eat lamb every day or that you should not eat any other foods. The Board considered that most members of the community would recognise that the advertisement is making a tongue in cheek reference to eating meat in order to promote the advertised product and that overall the advertisement is not promoting negative behaviour toward people who choose not to eat meat.

The Board considered the scene as a single scenario within the advertisement and noted that this is one scene where a particular group of people is identified and singled out. The Board noted that the component of the mission is aborted due to the man declaring he is vegan and that the reason for the mission was to ensure that the individuals were returned to Australia so they could eat lamb.

The Board considered whether the vegan man is given ‘unfair or less favourable treatment’. In the Board’s view the man is not treated unfairly. He is not taken back to Australia – but this is not seen as being unfair to him as it appears that he does not want to eat meat so would not want to return to Australia for that reason.

The Board then considered whether the advertisement vilifies the vegan man, that is, does the advertisement ‘humiliates, intimidates, incites hatred, contempt or ridicule’ for vegans. The majority of the Board considered that the man is not presented in a manner that is ridiculing him. He is shown to have informed the swat team of his decision to become vegan and is then left behind. The majority of the Board considered that the torching of the man’s dinner, in the context of the advertisement, is a torching of the vegan food as being less preferable to the advertised product, lamb. In the majority of the Board’s view this depiction is not inciting hatred towards people who are vegan but rather is an exaggerated and humorous response to the food that is not lamb.

The minority of the Board considered that the depiction of the man in a position of inferiority against the wall while the swat team set his food on fire is a depiction that the community would consider vilifying of people who are vegan.

The Board considered that the advertisement’s comedic, exaggerated scenario does imply that eating lamb is preferable to being vegan. However in the majority of the Board’s view the depiction of one food choice over another in the context of an advertisement for one of those foods, does not suggest that people who make this choice should be treated with contempt or humiliated, rather it suggests that by making that choice those people will not be able to enjoy a lamb chop on Australia Day.

The Board determined that the advertisement does not discriminate against or vilify vegans. The Board noted complainants’ concerns that the depiction of the businessmen and women in the office building located in Japan is stereotypical and is a negative depiction of the

Japanese nationality.

The Board noted in this particular scene there is an Australian businessman who is portrayed as being uncomfortable with the situation he is in and is rescued at an appropriate time to alleviate the awkward moment. The Board considered that the Australian man is portrayed as being mildly foolish and the emphasis is on his awkwardness and not a negative portrayal of the Japanese people he is meeting.

The Board noted a number of complaints concerned with the representation of Poland and Warsaw and references to treatment of Jewish people during WWII or during the Communist era. The Board noted that the opening scenes are stated as being a depiction of Warsaw, in winter 1996 and are deliberate in the attempt to paint a scene of a very cold place in wintertime. In the Board's view it is clear in the advertisement that the frustration and desperation of the character is due to not being able to eat lamb on the barbeque and is not intended to draw on any historical events. In the Board's view the advertisement does not discriminate against or vilify Polish or Jewish people.

The Board noted complaints that the advertisements is jingoistic and xenophobic and that there is a lack of ethnic diversity in the advertisement and a suggestion that Australians should be white. The Board noted that an advertiser makes the decision regarding use of actors in an advertisement and that it is not the Board's role to determine the diversity of actors used in an advertisement. The Board also considered that an advertisement's theme of how people should spend Australian Day is also a matter for the advertiser unless that theme discriminates against or vilifies people. In the Board's view the advertisement does not make any negative references to other nationalities, ethnicities or races and does not vilify Australians by exhorting consumers to eat lamb on Australia Day.

The Board noted that overall the advertisement suggests not eating lamb is un-Australian, but in the Board's view this suggestion is tongue-in-cheek and is not directed at a particular race, ethnicity or nationality.

The Board noted that the overall tone and theme of the advertisement is intended to be humorous and considered that the advertisement does not depict material that discriminates against or vilifies any person or section of the community.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board then noted complaints which raised issues under section 2.3. Specifically the Board noted complaints that the overall look and feel of the advertisement is violent and suggestive of terrorist attacks, that it is too violent for children and that the scene of a swat team member using a flamethrower is violent.

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board first considered whether the advertisement is suggestive of terrorism. The Board noted that this advertisement is an advertisement specifically designed to be shown on-line and via social media. In the Board's view therefore this is an advertisement that is targeted to an adult or mature audience, and given its online nature and where online it is shown is less likely to be seen by children. The Board noted that social media tools such as Facebook have a policy regarding the age of account holders who must be 13 years of age or above. The Board noted the television version of this advertisement (see case 0017/16) does not include a number of scenes that appear in the online version. In the Board's view, an adult audience including teenagers would understand this advertisement to be a humorous take on movies such as James Bond and Austin Powers style movies – in particular through the use of Lee Lee Chin in the main character role. In the Board's view the advertisement is unlikely to be viewed as depicting or condoning terrorist behaviour and that the level of action and violence is not inappropriate for the likely online audience.

The Board noted that the product advertised is lamb and that of itself the use of violence in an advertisement is not relevant to the product. The Board noted however that it has previously considered that scenes of action and violence can be acceptable even though the action and violence are not related to the product. The Board has on occasions considered such action scenes acceptable where they are presented in an unrealistic, exaggerated and humorous manner (0370/10 Fisherman's Friend, 0262/13 Boost, 0017/11 Inspiration Paint Store). The Board noted that the advertisement is clearly a depiction of a fantasy situation where SWAT style teams are bringing Australians back to Australia for Australia Day. There are exaggerated and unrealistic situations which have a look and feel of a movie. Scenes of a SWAT member coming in through a window or ceiling are clearly in this vein. Similarly breaking down the door of the man in the vegan scene is consistent with the fantasy movie feel of the advertisement. In the Board's view these images are all clearly fantasy and unrealistic and are not depictions of violence nor are they likely to encourage similar behaviour in real life.

The Board considered the scene where the SWAT team turns the flamethrower onto the table. The minority of the Board considered that the context of the flamethrower has a sense of menace and fear – with the man looking scared. The minority also considered that it is not clear that the flamethrower is being used to burn the vegetables and rather it looks as if the table is being set alight. In the minority of the Board's view this scene is violent as there is a sense of menace and fear and that this violence is in breach of section 2.3 of the Code.

The majority of the Board considered that this scene is in the similar vein as the remainder of the advertisement. In particular the Board noted that the intention is clearly fantasy, exaggerated behaviour to burn the vegetables on the table as a sign of a preference for lamb and a suggestion of BBQ. The majority of the Board considered that the use of the flamethrower was unrealistic and humorous in the context of the advertisement and noted that it is not directed toward the man. In the majority of the Board's view this image is not violent as it is a short scene in a long advertisement which has to be considered in the overall context and that in this context it is fleeting, unrealistic and is in a context of images that do not encourage violence.

The Board determined that the scene involving the use of the flamethrower did not breach Section 2.3 of the Code.

The Board also noted complaints that the advertisement depicts and condones bullying. In the Board's view the behaviour of the SWAT team towards the vegan man does not amount to bullying in the context of the advertisement. In particular the Board considered that this scene is a one off situation, there is not likely to be any repetition of the behaviour and although there is an imbalance of physical power this is a result of a fictional and unrealistic situation. The Board determined that the advertisement did not depict bullying and that overall the advertisement did not breach section 2.3 of the Code.

The Board then considered complaints that raised issues under Section 2.6 of the Code. In particular, the Board noted complainants' concerns regarding the use of the flame thrower and the breaking glass above the heads of the Japanese and Australian man in the office, the advertisement's suggestion to eat an unhealthy product in place of a healthier vegan diet, and the promotion of the product itself amounting to a promotion of violence against animals. The Board also noted complaints that the advertisement's depiction of the flamethrower is unsafe during bush fire season in Australia.

Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Board noted that the behaviour in all of the advertisement is over the top and fanciful and that this behaviour is not something that is likely to be copied and is not a depiction or encouragement of unsafe behaviour.

In particular, the Board noted that the office scene is clearly unrealistic in the nature of the rescue and although there may be some reality in the department of military style rescues, with the use of helicopters, this is not something that is done to extract people for the purposes of eating lamb. The Board noted that a flamethrower is not something that would be accessible to members of the community and in the context of the advertisement is intended to be unrealistic and extreme to continue the theme of the rescue mission and the preference for people to eat lamb.

The Board considered that overall the movie-style context of the advertisement would be understood as unrealistic and ‘over the top’ and that the depictions of unsafe behaviour in that context did not depict material contrary to prevailing community standards.

The Board noted concerns about the promotion of meat eating. The Board considered the Dietary Guidelines for Australians published by the National Health and Medical Research Council which include the recommendation to eat meat amongst a variety of foods:

Enjoy a wide variety of nutritious foods

- Eat plenty of vegetables, legumes and fruits
- Eat plenty of cereals (including breads, rice, pasta and noodles), preferably wholegrain
- Include lean meat, fish, poultry and/or alternatives
- Include milks, yoghurts, cheeses and/or alternatives. Reduced-fat milks are not suitable for young children under 2 years, because of their high energy needs, but reduced-fat varieties should be encouraged for older children and adolescents
- Drink plenty of water.”

In the Board’s view this advertisement is attempting to make consumers choose lamb rather than other meat on Australia Day and that this is not a message or depiction that is contrary to prevailing community standards on health. The Board considered that there is not a message in the advertisement that would be taken by the community as a message that people should turn from vegan diet to a meat diet.

The Board also noted that the promotion of a meat product will result in animal slaughter. However the Board considered that a suggestion of killing animals, and any consequential understanding of the manner in which such animals are slaughtered, is not a matter that is within the Code.

The Board noted that some people in the community would find the depiction of a flamethrower unpleasant in the middle of summer and in the context of house fires occurring in the annual bushfire season, however the Board considered that this was an unrealistic depiction that is not promoting unsafe behaviour and that the use of this image in the context of Australian summer is not against the Code.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

The Board also noted concerns that the advertisement breached the AANA Code for Advertising and Marketing to Children. The Board considered that the advertisement is not directed primarily to children but rather is clearly directed to an adult audience with the theme, images, language and music all suggesting an adult or teenage appeal. The Board also considered that the product – lamb – is not a product of principal appeal to children. The Board therefore determined that the Code for Advertising and Marketing to Children does not apply.

Finding that the advertisement did not breach the Code of Ethics, the Board dismissed the complaints.

