



Case Report

1	Case Number	0031/12
2	Advertiser	Intellectual Property Awareness Foundation
3	Product	Community Awareness
4	Type of Advertisement / media	TV
5	Date of Determination	22/02/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Race

DESCRIPTION OF THE ADVERTISEMENT

The IAPF 'Excuses' advertisement illustrates in quick, light-hearted, comedic scenes a cross section of Australians expressing their excuses for personally participating in movie and TV theft.

THE COMPLAINT

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

The comedian playing different types of people portrays an Asian student with blatant racist stereotypical characteristics. Whilst I am not Asian I have many Asian friends that still feel vilified in Australian life even though you wouldn't know the difference when say on the phone with them ads like this portraying Asians like this even as a joke only perpetrates racism as an acceptable medium.

THE ADVERTISER'S RESPONSE

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

We were very concerned to learn that our 'Excuses' TVC may have offended a member of the public. It is the first time we have received a complaint about our marketing and we are genuinely sorry for any offence we may have caused.

IPAF are a not for profit foundation trying to appeal to the Australian general public's moral compass to get them to do the right thing when it comes to movie and TV piracy. So we are fully supportive of self regulation, and it would never be our intention to offend as this would make it less likely for the audience to react positively to our appeal.

The 'Excuses' campaign which was launched in August 2011, aimed to dispel the commonly held perception that piracy is just the preserve of a small segment of society ... shady criminal types. Research shows that piracy is actually committed by all types of people. Therefore the communication relies on us getting over the idea that piracy is actually committed by a whole range of people for all sorts of reasons; copying DVD's, importing pirate DVD's, illegal downloading, etc.

In the ad, we see Australian actor Dan Wyllie playing different people drawn from the full spectrum of Australian society. It is essential to the 'all types of people' message that in the confines of a 4-5 second cut the audience can clearly identify that there is a full cross-section of Australian society – age, socioeconomics, race, life stage, lifestyle etc. To do this we need to ensure that the characters are clearly differentiated through all the available options: wardrobe, make up, voice talent, context and background scenes, etc.

The communication has a deliberately light-hearted, comedic approach and the characters are clearly not meant to be taken seriously. This approach is one that is drawn from a long tradition of movies and TV – a recent example being Chris Lilley's Ricky Wong character.

The obvious comedy means that as a society we do not misinterpret this as a negative racist approach – and we do not believe that our approach is any different.

We believe that the work we do as a foundation is important. The film and TV industry employs 50,000 Australians and it contributes \$6.1Bn to our economy. If we don't protect it, it will have a profound effects felt far and wide. Because this issue of piracy is such an important one, we feel it is important to create strong communications that cut-through and resonate with consumers. In doing so, we do not believe we have contravened Section 2 of the code.

We do apologise for any offense caused. We did not intend to offend or exclude anyone – in fact, the intent was the reverse, we actually specified that our agency include a broad mix of people that all Australians could identify with.

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 complainant's concerns that the advertisement is racist towards Asians.

The Board considered whether the advertisement was in breach of Section 2.1 of the Code. Section 2.1 of the Code states: “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, sex, age, sexual preference, religion, disability or political belief.”

The Board noted that the advertisement features an actor playing different roles in order to demonstrate how different people have different reasons as to why it is okay for them to illegally copy material. The Board noted that in one scene the actor is impersonating an Asian student and considered that this portrayal is one which is intended to convey a typical Australian student and their opinion of intellectual property piracy.

The Board considered that the advertisement depicts an actor dressing as a number of people of different social and ethnic backgrounds who are all depicted to have inappropriate (but relatable) opinions on the issue. The Board considered that the depiction of one of these people as an Asian student is not vilifying of Asian students in the context of this particular advertisement.

The Board determined that the material depicted did not discriminate against or vilify any person or section of the community on account of race and did not breach Section 2.1 of the Code.

Further finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaint.