



Case Report

1	Case Number	0039/15
2	Advertiser	Animals Australia
3	Product	Community Awareness
4	Type of Advertisement / media	Transport
5	Date of Determination	25/02/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

- Other Social Values
- 2.3 - Violence Causes alarm and distress
- 2.3 - Violence Causes alarm and distress to Children
- 2.3 - Violence Cruelty to animals
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement includes both an image and text. The image is a photo of a live Australian bull with a secretion (which appears to be a tear) coming from his eye. The Advertisement has two variations:

- The image and with text stating: “Live Export”; “It’s a crime against animals”; or
- The image and with text stating: “Live Export”; “It’s a crime against animals” / “Some trips should never be taken”.

The Advertisement has been placed on taxis, buses and billboards Australia-wide. Details of the Advertisement, including copies of the image, can be seen on Animals Australia’s website at <http://www.banliveexport.com/features/biggest-campaign-ever-hits-the-streets.php>.

THE COMPLAINT

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

I produce livestock and sell into foreign markets both live and chilled. Australia was shown to be 99% compliant in ESCAS regulations overseas and improving welfare standards on a global scale. It is not a crime as is stated but endorsed by both major political parties.

Just as with the RSPCA's directive in schools being dismantled in disgust through Federal Parliament, this is an agenda thrust upon the general public, regardless of age, by a vegan minority, claiming our legitimate business trade is a crime, which it clearly is not. It's disturbing, upsetting and a false representation of exports.

The claims made in the ad are inaccurate regarding live export being a crime. The picture of the animal is offensive and alarming to young children and those sensitive to animal welfare issues.

THE ADVERTISER'S RESPONSE

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

Animals Australia has reviewed and considered all AANA Advertiser codes referred to in your letter and strongly believes that the Advertisement does not breach any of the standards set out in these codes.

The image used in the advertisement was taken by Animals Australia investigators in October 2013 at the Festival of Sacrifice in Mauritius. During that investigation, Animals Australia documented groups of Australian cattle being blatantly and illegally sold to private buyers from the only Australian Government-authorized feedlot in Mauritius, and subsequently being treated cruelly, including being beaten, bound with ropes, stabbed and brutally slaughtered.

The image used in our Advertisement was selected as the most appropriate from photographs and footage obtained across many countries in the last several years as it does not depict graphic slaughter. Instead, the image merely shows a live bull on the ground with his legs bound, and with what looks like a tear coming from his eye.

This Advertisement does not misrepresent the cruelty documented in the live export industry, and indeed it is regrettably the case that on every investigation in importing countries over the past 11 years, Animals Australia has uncovered and documented similar scenes. In fact, the footage and photographs taken in Jordan, Kuwait, Malaysia and particularly in the Gaza Strip by Animals Australia investigators at the Festival of Sacrifice in October 2014 were all judged too graphic for public use.

If required, Animals Australia is willing to provide further footage and documents to the Australian Standards Bureau detailing how widespread and commonplace animal cruelty is in importing countries: both during the Festival of Sacrifice period (which is a peak selling and slaughter period in importing countries); and generally throughout the year.

A comprehensive summary of Animals Australia's live export investigations is available here: <http://www.banliveexport.com/investigations/>.

Further, Animals Australia strongly believes that referring to the practices documented throughout our investigations as “a crime against animals” is appropriate. Exporters of live animals from Australia are legally responsible for keeping Australian animals within ‘approved’ supply chains under the Australian regulations that monitor Australian animals in this trade, called the Exporter Supply Chain Assurance System (ESCAS). However, throughout our investigations (including since this regime was introduced in 2012 as a result of our investigation into slaughterhouses in Indonesia), we have documented widespread breaches of these legal requirements, including illegal sales of Australian animals, cruel methods of restraint and brutal slaughter.

As indicated above, the bull used in our Advertisement was documented being restrained and later slaughtered in a manner that clearly breached Australian regulations, hence rightly being described as a crime. This is reinforced by the fact that over 40 formal legal complaints have been made to the Department of Agriculture for ESCAS breaches within the live export trade since 2012. However, despite complaints being upheld (that is, breaches substantiated after a formal investigation by the Federal Department of Agriculture), not a single exporter has been prosecuted to date.

In the case of the “crimes” committed against the bull in our Advertisement (and three other Australian bulls that suffered a similar fate), the Federal Department of Agriculture held that the exporter did commit a breach of ESCAS and the evidence provided to the Australian government by Animals Australia was upheld and substantiated. The findings of that investigation are available here:

<http://www.agriculture.gov.au/biosecurity/export/live-animals/livestock/regulatory-framework/compliance-investigations/investigations-regulatory-compliance/cattle-mauritius-report-22>.

The purpose of the Advertisement is to ensure the Australian public and decision-makers are aware that the current regulations are failing. Not only are the regulations (ESCAS) set at a standard that is illegal in Australia (such as the routine slaughter of cattle whilst full conscious), these standards are not even being adequately enforced, and thus they fail to protect the welfare of Australian animals.

Animals Australia has been overwhelmed by calls and emails from members of the community who support our campaign and agree that the current regulations fail to meet Australian community expectations. In fact, Australian farmers involved in supplying their animals to the live export companies were unaware of the fate of their animals, but for the work of Animals Australia, which has resulted in those groups also actively speaking out against the systemic and serious breaches that are being uncovered in this trade, and demanding that the exporters involved be sanctioned and stamped out.

We believe it is in the public interest to continue to press for humane standards for Australian animals in the live export trade, and to call for the breaches and crimes being committed to be properly sanctioned.

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 complainants’ concern that the advertisement depicts an image of a bull in distress and is not appropriate for outdoor display.

The Board noted that some complainants were concerned that the advertisement was misleading in its suggestion that a lawful business would use cruel methods of exporting animals. The Board noted that issues of truth and accuracy fall under Section 1 of the Code of Ethics and that these complaints should be directed to the Australian Competition and Consumer Commission (ACCC).

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

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 noted the advertisement features a photo of a bull and the text includes one or both of the phrases, “Live export. It’s a crime against animals” and “Some trips should never be taken”.

The Board noted the complainants’ concerns that the bull appears to be in distress and that the image contains imagery which is likely to cause alarm to the community, especially children.

The Board noted it had recently dismissed complaints about a similar advertisement in 0438/14 where:

“The Board noted that the advertisement features an image of a horse lying down and the text includes the advertiser’s web address www.horseracingkills.com.

The Board noted the complainants’ concerns that the image of the horse is distressing to both adults and children because the horse is dead.

The Board noted that whilst the name of the advertiser’s website, horseracingkills.com, could suggest that the horse in the advertisement is dead, the Board considered that the image of the horse shows it lying down but it is not clear whether the horse is dead or alive. The Board noted that horses are able to sleep and rest either standing up or lying down

(www.ultimatehorsesite.com) and considered in this instance that the lack of blood or obvious trauma to the horse means that people, particularly children, could consider it to be asleep. The Board considered that the image itself is not graphic and that the advertisement does not present or portray actual violence. The Board noted that the advertisement does imply violence through the name of the website www.horseracingkills.com but considered it is not shown and young people and others may not understand the link. The Board considered that this implication of violence is mild and not inappropriate in the context of the community awareness message being advertised.

The Board noted the content of the advertisement and considered that in this instance the material depicted is relatively mild as it is not clear that the horse is dead, and therefore does present only implied violence in a manner which is justifiable in the context of the product advertised.”

The Board noted in the current advertisement that only the bull’s head is visible and that as its eyes are open the most likely interpretation is that the bull is alive. The Board noted the complainants’ concerns that the bull appears distressed and considered that although the water running from the bull’s eye does give the impression it is crying there is no blood or obvious trauma and the image itself is not graphic. The Board noted that the text does suggest that exporting animals is a crime but considered overall that the advertisement does not depict actual violence.

The Board considered that the advertisement did not present or portray violence.

The Board determined that the advertisement did not breach Section 2.3 of the Code.

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

