



**Ad Standards** Community Panel  
PO Box 5110, Braddon ACT 2612  
P (02) 6173 1500 | F (02) 6262 9833

**AdStandards.com.au**

Ad Standards Limited  
ACN 084 452 666

## Case Report

<b>1. Case Number :</b>	<b>0050-21</b>
<b>2. Advertiser :</b>	<b>Specsavers</b>
<b>3. Product :</b>	<b>Health Products</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Free to Air</b>
<b>5. Date of Determination</b>	<b>10-Mar-2021</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.3 Violence

### DESCRIPTION OF ADVERTISEMENT

This television advertisement shows two Beach Volleyball teams involved in a match. The player from the opposing team prepares to serve, with one of the other team players looking on preparing to receive the serve. The sun is glaring in his eyes and he doesn't see that the other player hasn't served the ball yet. Leaping up and thinking that he has spiked the ball, we then see that he has spiked a Seagull flying past accidentally mistaking it for the ball. The player then celebrates his mistaken victory by running around the court in joy. We then see the Seagull shake himself off clearly unhurt. We then cut to the Seagull flying over the player and getting his revenge by pooping on him.

### THE COMPLAINT

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

*Promotes and makes fun of animal suffering and cruelty. I am providing feedback based on a TV advertisement currently running in Victoria Australia. A beach volleyball player jumping to hit a ball and hits a seagull knocking it to the ground, as the player cheers not realising his error, the ad then promotes your company by saying 'should have gone to Specsavers', the seagull then flies away and craps on the volleyball player.*



*I find it in very poor taste and put it to you that this is encouraging animal abuse possibly from a younger demographic or people who blatantly don't care for animals and see it as amusing, 'should have gone to Specsavers'.*

*I do go to Specsavers but this promotion is offensive and concerning and would deter me from returning as a customer.*

*All animals deserve respect and I would encourage the company to remove the ad employ a higher calibre of creative designers and marketing team so you could advertise humorously without showing 'animal abuse'.*

*Outright display of animal cruelty especially when he cheers & fist pumps the ground. This disgusting behaviour can be copied resulting in real seagulls being hurt. Why can't he just run into the volleyball post or net? Is it necessary he punches a defenceless bird to sell glasses?*

## **THE ADVERTISER'S RESPONSE**

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

*Further to your letter of 1 March 2021 addressed to Kimberley Cravo regarding the above complaint, please find below our response for due consideration by the Ad Standards Community Panel.*

*Response to all parts of Section 2 of the AANA Code of Ethics ("Code") in relation to complaint reference number 0180/19*

*The television advertisement in question is one in a series of the long running "Should Have Gone To Specsavers" television campaign. The campaign encourages people to have their eyes tested in a light hearted way and uses humour to point out the things that people may do when they can't see clearly. In this particular advertisement, our intention is to draw attention to the poor eyesight of the beach volleyball player in a playful way. It is definitely not our intention to promote violence and cruelty against animals. The volleyball player has not been portrayed as being violent against the seagull, but rather has mistaken it for the ball due to his vision impairment. The joke is very much on the volleyball player and the advertisement is designed for the audience to laugh along at his mistake. No real birds were used in the making of the advertisement, as CGI animation was utilised.*

### **2.1 - Discrimination or Vilification**

*As the Code does not define the terms 'discriminates' or 'vilifies' we have adopted the ordinary English meanings of these terms. We draw your attention to the following Macquarie Dictionary definitions in the context of this complaint:*

*'vilify': to speak evil of, defame, libel, malign, slander*



*'discriminate': to make a distinction, as in favour of or against a person or thing.*

*We do not believe it can reasonably be said that any aspect of the advertisement portrays people or depicts 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.*

#### *2.2 – Exploitative and degrading*

*Section 2.2 of the Code addresses the use of sexual appeal in a manner that is exploitative or degrading. There is no use of sexual appeal in the advertisement. We therefore believe that the advertisement complies with the Code in relation to Section 2.2.*

#### *2.3 – Violence*

*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”.*

*We do not believe that the advertisement presents or portrays violence or cruelty towards animals. We are by no means advocating violence against animals in this advertisement. The clear intent of the commercial is to demonstrate in a light hearted and humorous manner the effects that vision impairment can have for an individual, in this case, the volleyball player. The volleyball player has not been portrayed as being intentionally violent against the seagull, but rather has mistaken it for the ball due to his vision impairment. The seagull is shown to be ok when we see it get back up and shake itself off on the sand. We deliberately included this into the advertisement to show that the seagull was unharmed with no impact to its wellbeing. In addition, at the end of the advertisement to show the seagull getting its ‘revenge’ on the volleyball player, we see it fly over and defecate on the player's shoulder demonstrating advocacy for the seagull and confirming it was unharmed. We also believe that due to the far-fetched nature of the scenario in the commercial, people, including those of a younger demographic, will not be influenced to mimic the volleyball player in such a way. We therefore believe that the advertisement does not breach Section 2.3 of the Code.*

#### *2.4 – Sex, sexuality and nudity*

*Section 2.4 of the Code states that “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.”*

*We do not believe there is any reference to sex, sexuality or nudity in the commercial. We therefore believe that the advertisement complies with the Code in relation to Section 2.4.*



## *2.5 – Language*

*Section 2.5 of the Code states that “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.”*

*We do not believe there is inappropriate language in the commercial we therefore believe that the advertisement complies with the Code in relation to Section 2.5*

## *2.6 – Health and Safety*

*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.”*

*We do not believe the commercial depicts material contrary to prevailing health and safety standards. We therefore believe that the advertisement complies with the Code in relation to Section 2.6.*

## *2.7 – Distinguishable as advertising*

*We believe the commercial is distinguishable as advertising and as a marketing communication. The advertisement clearly promotes the fact that Specsavers, for a limited time, is offering consumers free polarised lenses in their second pair when they purchase two pairs from the \$149 range or above.*

*The aim of the advertisement is to create urgency for consumers to visit a Specsavers store and make the most of a limited time offer.*

*We therefore believe that the advertisement complies with the Code in relation to Section 2.7.*

## *Advertising & Marketing Communications to Children Code*

*We believe that the advertisement does not contravene the Advertising & Marketing Communications to Children Code as the advertisement is not directed primarily to children, having regard to the theme, visuals and language used. In particular:*

*this is an advertisement which is directed to adults; the offer promoted (and the associated call to action) relates to spectacle frames from the adult male and female ranges;*

*there is nothing in the theme of the advertisement which is directed towards children; and*

*the advertisement uses language intended to resonate with adults and is unlikely to capture a child's attention or engage a child.*

## *Food & Beverages Advertising & Marketing Communications Code*



*The Food and Beverages Advertising and Marketing Communications Code does not apply to the advertisement. The advertisement is not advertising Food or Beverage Products.*

*We trust that we have been able to provide further clarity on this matter, but in the event you require any further information, please do not hesitate to let me know.*

## **THE DETERMINATION**

The Ad Standards Community Panel (Panel) considered whether the advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement depicts and promotes animal cruelty.

The Panel viewed the advertisement and noted the advertiser's response.

### **Section 2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.**

The Panel noted the Practice Note for this section of the Code which states "*Violence against animals is caught by this section*".

#### **Does the advertisement contain violence?**

The Panel noted that the man does appear to hit the seagull hard but considered that most members of the community would recognise that it was a CGI creation and not a real bird. The Panel noted that the advertisement does not actually show the man make contact with the bird.

The Panel considered that the bird does not appear to be harmed by the man's actions as it shakes itself off and then gets its revenge by pooping on his shoulder. The Panel noted that the theme of the advertisement is in keeping with this advertiser's previous advertisements which show people making errors because they are not wearing the appropriate visual aids.

The Panel considered that in this instance the focus on a man mistaking a bird for a ball is unlikely to be considered by most members of the community to be a depiction of violence against seagulls or any other animal and is a situation most likely to be considered unlikely and humorous.

#### **Section 2.3 conclusion**

In the Panel's view the advertisement did not portray violence and did not breach Section 2.3 of the Code.



## **Conclusion**

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