



ADVERTISING  
STANDARDS  
BUREAU

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## Case Report

1	Case Number	0056/14
2	Advertiser	FOXTEL Management Pty Ltd
3	Product	Entertainment
4	Type of Advertisement / media	TV
5	Date of Determination	26/02/2014
6	DETERMINATION	Dismissed

### ISSUES RAISED

- Other Social Values
- 2.1 - Discrimination or Vilification Occupation
- 2.1 - Discrimination or Vilification Race
- 2.6 - Health and Safety Within prevailing Community Standards

### DESCRIPTION OF THE ADVERTISEMENT

The Advertisement depicts a number of AFL fans who are so obsessed with the FOX FOOTY channel that they will go to all measures to watch it and are regularly distracted by it. We see paramedics concentrating more on the TV than their patient, burglars pausing to watch TV, a man accidentally putting a nail in his hand whilst watching TV and using a nail gun. The depictions of the FOX FOOTY fans in the Advertisement are supported by a comical rendition of "Up there Cazaly" (the famous AFL theme song) where the lyrics have been reworked to align with the theme of the Advertisement.

### THE COMPLAINT

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

- I was offended on three grounds on the subject matter of this ad for Fox AFL Footy Channel;*
- 1. It attempts to make criminal activity (People engaged in stealing peoples property) socially acceptable.*
  - 2. It attempts to demean or disrespect funeral service. (People viewing the dead don't respect the dead person)*
  - 3. The ad also illustrates child negligence as acceptable parental behaviour. (Children are*

*left to their devices while father watching TV).*

*This one of the most demeaning ad I have ever seen. Please review and consider my comments.*

*I was offended by this advert, as I feel that it reflects badly on such noble and important work that paramedics do all round Australia. To even hint that these devoted women and men are so frivolous as to stop caring for a patient to be mesmerised by deals from any provider is beyond any understanding.*

*I was also further offended that funeral homes' staff are depicted as so uncaring and insensitive that they forget to close a lid on a coffin due to deals from a provider.*

*A number of reasons - firstly showing ambulance officers ignoring their patient in order to watch football - shows total lack of respect to the hard work that ambulance officers do. Then showed a mother watching football and leaving her children waiting to be picked up from school - lack of parenting values - football more important than caring for your children. People at a funeral rather watching foxtel rather than caring a loved one has died. All it did was totally make me feel that foxtel has no values and is undermining the values of society as a whole, that caring for others is worthless when compared to football. Disgusting!!*

*The indigenous people in the ad were shown as dirty primitive and homeless with just loin cloths. All white men were for the most part in suits.*

## **THE ADVERTISER'S RESPONSE**

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

*The complaint relates to the 2014 FOX FOOTY 'No we're not crazy' AFL advertisement (the "Advertisement").*

*The Advertisement was approved for broadcast by the Commercials Advice (CAD reference: 1023807) and was assigned a "P" placement code.*

*The aim of the Advertisement is to promote FOX FOOTY as the channel that AFL fans are so fanatical about that they can't live without it. The Advertisement depicts a number of AFL fans who are so obsessed with the FOX FOOTY channel that they will go to all measures to watch it and are regularly distracted by it. The depictions of the FOX FOOTY fans in the Advertisement are supported by a comical rendition of "Up there Cazaly" (the famous AFL theme song) where the lyrics have been cleverly reworked to align with the theme of the Advertisement.*

*Section 2.1 – AANA Code of Ethics*

*We understand that a consumer has contacted the Advertising Standards Bureau claiming that Foxtel is discriminating against Indigenous Australians by depicting them in the Advertisement as "dirty primitive and homeless with just loin cloths". The basis of this complaint is discrimination on account of 'ethnicity' and an alleged breach of section 2.1 of the AANA Code of Ethics (the "Code"), which provides:*

*"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.”*

*The complainant is referring to the castaway scene in the Advertisement where three men are depicted as castaways on a deserted island. Below is a description of the castaway scene from our original TV script:*

*Sung Lyric: It's the one thing that you'd miss the most,*

*Vision description: We cut to three blokes stranded on a desert island. It's clear from their beards and skinny, tanned bodies that they've been there a while.*

*Sung Lyric: If you were a castaway.*

*Vision description: We see one bloke bounce a footy like an umpire. He then taps the ball down and roves his own ruckwork. We see the other two watching him through a huge TV constructed from driftwood. One is clutching a remote made from sticks and shells and the other is holding a coconut like a popcorn bowl. The bloke in the TV kicks a coconut and claims his own goal.*

*The intent of this scene is to humorously depict a situation where three castaways have been missing FOX FOOTY's coverage of the AFL so much, that they've recreated their own TV set on the beach. The intention of this scene is reinforced by the lyrics during this scene:*

*“It's the one thing that you'd miss the most, if you were a castaway.”*

*The casting for this scene features a man of Asian decent and two Caucasian men. All three men have purposely been depicted as heavily tanned to suggest that they have been stranded on the island for a long time. In keeping with this theme, the men are intentionally depicted wearing clothes that are worn and tattered. The scene does not contain any Indigenous Australians and there was no intention for these men to resemble people of Aboriginal descent.*

*We understand that the ASB has also received complaints about the ambulance scene in the Advertisement where two ambulance personnel are distracted by FOX FOOTY while attending to a patient. This scene is one of many humorous scenes within the Advertisement that are intended to be exaggerated depictions of obsessed FOX FOOTY fans. It is worth noting that the patient in this scene is just as engrossed with FOX FOOTY as the ambulance personnel and the patient shows no signs of distress or neglect.*

*This scene was meant to be humorous; it was never intended to depict the ambulance profession in a negative light or to disrespect the ambulance community in any way. We believe that when this scene is viewed within the advertisement as a whole, it is clear to the audience that our depiction is justified by the context of the Advertisement. Accordingly, we do not believe that this scene has breached section 2.1 as it does not discriminate against or vilify the ambulance community on account of their occupation.*

*Section 2.3 – AANA Code of Ethics*

*We have also been asked to respond to an alleged breach of section 2.3 of the Code, which provides:*

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

*The Advertisement includes a number of scenes where fanatical fans are so engrossed in FOX FOOTY that they fail to pay attention to what they are doing. One scene in the Advertisement depicts a tradie being so distracted by FOX FOOTY that he appears to accidentally put a nail in his hand.*

*Foxtel submits that the impact of this scene is mild as the injury is only implied. Penetration of the man's hand is only inferred without being explicitly depicted in the scene. We can also confirm that our advertising agency worked closely with CAD throughout the development and production of the Advertisement to ensure that this scene was presented in a tasteful way. The theme of the Advertisement is further supported by the lyrics during this scene:*

*“No we're not crazy, oldies are hooked, so are the tradies.”*

*Accordingly, Foxtel submits that the scene is justified by the context of the Advertisement. Section 2.6 – AANA Code of Ethics*

*Another scene within the Advertisement depicts a mother attempting to leave her house to pick her kids up from school but who is so distracted by FOX FOOTY that she has been unable to leave. The scene then cuts to a depiction of her two kids waiting at school. We understand that some consumers believe that this scene depicts material contrary to prevailing community standards on health and safety by encouraging poor parenting practices.*

*In line with the other scenes in the Advertisement, this scene is meant to be a humorous, dramatic portrayal of ‘a day in the life of’ a FOX FOOTY fan. This theme is further supported by the lyrics during this scene:*

*“What started as a passion, has now lead your life astray.”*

*This scene is not intended to be taken literally and we certainly do not intend to condone or encourage this behaviour. The same applies to the funeral scene in the Advertisement where we depict mourners being distracted by FOX FOOTY during a funeral. In line with the other scenes in this Advertisement, the funeral scene was meant to be light hearted and humorous. We do not expect this behaviour to be viewed literally and the scene was never intended to trivialise death or disrespect the deceased.*

*We do not condone the ‘outrageous’ behaviour of any of the FOX FOOTY fans depicted in the Advertisement. This is evident in the final scene where we comically encourage the audience to ‘Enjoy [FOX FOOTY] responsibly’. Accordingly we do not believe that we have breached section 2.6 by depicting material contrary to prevailing community standards on health and safety.*

*Conclusion*

*Foxtel takes the concerns of its subscribers and its commitment to the community very seriously. We can confirm that the Advertisement was intended to be light-hearted and humorous; it was never intended to cause offence to its audience.*

*For the reasons set out above, Foxtel submits that the Advertisement has not breached section 2.1, 2.3 or 2.6 of the Code.*

## **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’ concerns that the advertisement is racist in its depiction of indigenous people and it depicts unsafe situations where patients and children are ignored whilst the persons responsible for them watch AFL on television.

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

The Board noted that some of the complainants were concerned that the advertisement depicted material which is socially unacceptable, specifically a depiction of burglars in the process of stealing from a house. The Board noted that it can only consider issues about the content of an advertisement if those issues are listed in Section 2 of the Code of Ethics. As the issue of stealing is not a matter within Section 2 of the Code the Board would not be addressing it in their determination. The Board recommended that the complainants contact the advertiser directly to discuss these concerns.

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 noted that the advertisement features various scenes where people stop doing what they should be doing in order to watch AFL on television. The Board noted that in one scene we see castaways on an island playing AFL because they don't have access to a television. The Board noted the complainant's concern that the castaways are indigenous people and are depicted as, "...dirty, primitive and homeless" in contrast with the "white men" in the advertisement who are presented "...in the most part in suits".

The Board noted that the accompanying voiceover describes the men as castaways and that the advertiser's response indicates that two of the actors are Caucasian and the third actor is of Asian descent.

The Board noted it had previously dismissed a similar complaint regarding the portrayal of a Caucasian man appearing to be dark skinned in case 0127/13 where:

"The Board noted the complainant's concerns that the advertisement perpetuates racist stereotypes and portrays dark skinned people as primitive... The Board noted that the actor's appearance included a change from having darker looking skin to much fairer skin after the use of the advertised product. The Board felt that it was evident that this change in skin colour was clearly part of the transition from a scruffy and dirty caveman to a neater and cleaner modern man and was not a change in ethnicity."

In the current advertisement the Board noted that the actors are presented in a manner which is consistent with people who have been 'castaway' on a deserted island for a period of time and considered that the appearance of the actors and the accompanying voiceover make it clear that the actors are portraying castaways and not indigenous people.

Consistent with its previous determination the Board considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community.

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

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 that in one scene we see a tradie using a nail gun whilst watching the television and that he appears to put a nail in to his hand.

The Board noted that this scene is very brief and that although it is clearly implied that the man uses the nail gun on his hand we do not actually see it happen. The Board considered that in the context of a montage of scenes where people are distracted from their normal duties the advertisement does not present or portray violence in a manner which would breach Section 2.3 of the Code.

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

The Board considered whether the advertisement was in breach of Section 2.6 of the Code. 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 the complainants' concerns that the advertisement depicts unsafe situations where patients and children are ignored whilst the persons responsible for them watch AFL on television.

The Board noted that in the scene where the paramedics are ignoring their patient, the patient does not appear to be in any distress and is also watching the AFL on television. The Board considered that the advertisement was not suggesting that paramedics would or should behave in this manner but is unrealistic.

The Board noted the scene where a mother is late collecting her children as she is watching AFL and considered that whilst the children appear to be fed-up they do not appear distressed or in any danger. The Board noted that the accompanying voiceover to this scene describes the mother's life as having been "led astray" and considered that her behaviour is being

judged as undesirable.

The Board noted the scene featuring the tradie using a power tool and considered that his behaviour is clearly presented as foolish and that the advertisement does not encourage the unsafe use of a power tool.

The Board noted that the situations depicted in the advertisement are over the top and considered that most members of the community would agree that the advertisement is not encouraging this behaviour but is presenting it as what not to do.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety.

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

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