



Case Report

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| 1 | Case Number | 0081/15 |
| 2 | Advertiser | Actron Air |
| 3 | Product | House Goods Services |
| 4 | Type of Advertisement / media | TV - Free to air |
| 5 | Date of Determination | 25/03/2015 |
| 6 | DETERMINATION | Upheld - Modified or Discontinued |

ISSUES RAISED

2.1 - Discrimination or Vilification Race

DESCRIPTION OF THE ADVERTISEMENT

The advertisement features a spokesperson that represents the Brand, talking directly to the camera about various features, benefits, and points of difference of the company. There are 3 'extras' who are representative of the 'overseas air conditioning brands.' The characters are acting in a ridiculous way and are dressed in Australian paraphernalia.

THE COMPLAINT

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

Action air conditioning portray an Asian man wearing an Australian hat as being a "fake" masquerading as a "Australian". This is racially offensive as it implies that those of Asian descent are not true Australians.

THE ADVERTISER'S RESPONSE

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

A general comment before we focus our feedback on the specific consumer complaint: The complainant asserts that the advertisement is implying that the Asian gentleman is not an Australian, and therefore that the advertisement has racist overtones. However, the creative concept for the advertisement is that the men represent 'overseas air conditioning brands',

and are not portrayed as individuals. Each extra is given an equal amount of on-screen time, which further emphasises that there is no specific Asian bias. The advertisement is 100% focused on companies, and does not in any way refer to any individuals. To emphasise our point around the multinational nature of the majority of our competition, in addition to our CAD substantiation documentation, please also refer to the following head offices of our major competition:

- Daikin: Japanese head office*
- Fujitsu: Japanese head office*
- Samsung: South Korean head office*
- Mitsubishi: Japanese head office*
- LG: South Korean head office*

With regards to specific feedback on the consumer complaint:

Consumer comment 1: "This is offensive in the way it infers that an Asian man is not perceived as being "Australian"

We strongly reject that this advertisement seeks to infer that an Asian man is not perceived as being Australian. The creative concept for the ad is to highlight the uniquely Australian aspects of our company, by contrasting us with our predominantly multinational competition. The ad opens on our Brand spokesperson who states "Unlike some air conditioning companies, ActronAir doesn't try to be Australian, they are Australian". While he is speaking, it cuts to three extras, each of whom represent 'Overseas Air Conditioning Brands'. The first extra shown is a gentleman of Asian origin, the advertisement then cuts to a gentleman of Eastern European origin, before finally showing a gentleman of Mediterranean origin. All three of these extras serve the same creative purpose, there is no distinction made between any of them.

In itself, this is evidence that neither our intent nor the execution of the advertisement focuses solely on the Asian gentleman over the other two extras. However, the ethnic origin of the extras is not even the point of their presence in the ad. We simply selected a cross section of heritages precisely to avoid focusing on any one specific ethnicity.

The actual purpose they serve is to actually focus on our company, by highlighting our uniquely Australian heritage by presenting themselves as 'pretending' to be Australian through their wardrobe choices. They are all wearing similar business attire to highlight their corporate/multinational roots, and then over the top they each wear items of clothing to present themselves as 'Australian' :

- The Asian gentleman wears an Australia hat, a Ken Done inspired jumper, and is waving a New Zealand flag*
- The Eastern European gentleman wears an Australia scarf, awkwardly holds a cricket bat, and wears a T-Shirt that reads "I love NZ" inside of an outline of Australia*
- The Mediterranean gentleman wears an outback hat, an outdoors-y vest, and holds (and drops) a cricket ball*

These humorous wardrobe choices are specifically designed to exaggerate the point we're seeking to highlight, which is that because we are uniquely Australian, we don't need to pretend to be Australian, we simply are.

Consumer comment 2: "...voice over urging people to only buy Australian made and avoid purchasing inferior goods masquerading as Australian"

At no point does this advertisement urge people to only buy Australian made, nor does it at any time instruct people to avoid purchasing inferior goods masquerading as Australian.

As outlined above, and in the script, and in the footage, this advertisement simply seeks to emphasise how uniquely Australian ActronAir is. We believe this is a point of difference to the vast majority of our competition, and are justifiably proud of this fact.

With this understanding, we firmly believe that our advertisement complies with the sections of the Advertiser Code of Ethics. We believe that in no way does it breach any of the following considerations:

2.1 Discrimination or vilification

2.2 Exploitative and degrading

2.3 Violence

2.4 Sex, sexuality, nudity

2.5 Language

2.6 Health & Safety

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 concern that the advertisement is discriminatory in its suggestion that Asian people are not true Australians.

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

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 the advertisement features a presenter talking to the camera about the features of the company and the fact they are an Australian company. The advertisement depicts three men dressed in Australian paraphernalia representing overseas air conditioning brands. There is a man of Asian origin, one of Eastern European origin and one of a Mediterranean background.

The Board noted the complainants’ concerns that the advertisement features heavily on making the Asian man appear to be the one who is un-Australian.

The Board noted the advertiser’s response that the intent of the advertisements was to highlight the fact that some of the multinational companies seek to present themselves as “Australian”, when in reality they are not.

The Board noted that it had upheld complaints about an advertisement for Murray Goulburn (ref: 0299/14) where some business men and women are attempting to herd some cattle. One of the men is an Asian man struggling with the task at hand. In this case, the Board considered that “the advertisement delivers a negative suggestion that people of Asian background are not capable of, or should not be involved in farming and that the portrayal of the man in this way is demeaning.”

Similar to the decision in case 0299/14, in the current advertisement the Board noted that the advertisement shows firstly the Asian man on his own and he appears puzzled and confused.

The Board noted that the advertisement continues on to show all three men together acting and dressed in a ridiculous manner. The Board noted however, that the men of European and Mediterranean background are not clearly distinguishable as such and that they appear 'Caucasian' rather than from a particular background.

The Board noted that the opening scene of the advertisement shows the Asian man very close up to the camera and he appears embarrassed and awkward. The Board considered that the Asian man is more strongly the focus of the opening scenes and he is shown in an unfavourable light. The Board considered that the depiction created an impression of the Asian man that was a negative depiction of people of Asian descent as being able to "try" to be Australian.

The Board noted that it was considering the same advertisement on Pay TV (0082/15) and that they reached the same decision to uphold in that case.

The Board agreed that the use of this particular character in this way did amount to a depiction which discriminates against a section of the community based on race and that it did breach Section 2.1 of the Code.

Finding that the advertisement did breach the Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advertiser advised of the following course of action:

- Ensure existing TVC is pulled from existing media plan (both free to air and pay TV) and does not appear again in its current form

- We will then work with our advertising agency to amend the materials, making changes that are reflective of the specific comments raised in the Case Reports by the Advertising Standards Board

- Once we are satisfied that the amended material meets the comments made in the Determination, we will re-submit the TVC to the CAD approval process

- Upon receipt of CAD approval, we will then reinsert the TVC back into our rotation of creative materials in line with our planned media activity

It is our understanding that the above is a response that is in line with best practice response, and that our proposed changes are in good faith with the comments raised.

