



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0102/11</b>
<b>2</b>	<b>Advertiser</b>	<b>Nova 937</b>
<b>3</b>	<b>Product</b>	<b>Media</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>13/04/2011</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.1 - Discrimination or Vilification Ethnicity

### DESCRIPTION OF THE ADVERTISEMENT

The Ad features Nova FM's Drive Announcers, Fitzzy and Wippa, doing aerobics in the office after hours with a giant "Novaboy" (fictional character which embodies the "Nova" brand). "Novaboy" is acting as an aerobics instructor for the announcers.

As Fitzzy, Wippa and Novaboy begin dancing/doing aerobics to music, the screen flashes briefly to a cleaning lady, who is also dancing along to the music, and to a man in a suit, who also starts dancing along to the music.

The screen then focuses on Fitzzy & Wippa, who discuss how they performed in aerobics, with Fitzzy saying "how were my pins?" and Wippa saying something along the lines of "Fantastic mate".

The man in the suit and Novaboy get into the lift together laughing.

The ad finishes with a reference to Nova Drive Show, 4-7pm Weekdays on Nova 937.

### THE COMPLAINT

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

*In the background there is a cleaning lady who appears of certain ethnicity.*

*I feel that it is degrading and rude that they even need to show her in the ad.*

*Not all cleaners are of an ethnic background. I think it is going back in times and very rude.*

*I am appalled this went to air. It's actually quite shocking people still think this way. I thought we were a multicultural society - not so much hey.*

*Whilst they were dancing they also showed the cleaner dance who was of obvious ethnic origin, perhaps African. I could not believe they used this stereotype for a cleaner. Seeing that all the presenters were Caucasian why did they have to show an ethnic cleaner? Is it because they think all cleaners are ethnic? Why not show a skinny blond as the cleaner? I believe the advertiser is basing this on stereotypes perhaps from what they show a lot in America about the janitor always being black. I think it's pretty bad that this advertisement conveys this image. It is 2011, it's about time these stereotyped images change.*

## **THE ADVERTISER'S RESPONSE**

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

*The two complainants raised concerns regarding the use of an actor of ethnic origin as the "cleaner" in Nova's Advertisement. The actor portraying this character appears to be about 40-50 years of age, has dark skin and dark hair. She is wearing a blue dress with short sleeves (of the kind viewers might associate with domestic or commercial cleaning staff). The complaints suggest that the Advertisement "...is degrading and rude that they [Nova] even need to show her in the ad", that "not all cleaners are of an ethnic background", and that "I believe the advertiser is basing this on stereotypes..".*

*At the outset it is important to note that DMG Radio (Perth) Pty Ltd (trading as Nova 937) (Nova) does not consider itself strictly bound by the Code. Nevertheless, as a matter of corporate policy and broadcasting practice, Nova uses its best endeavours to comply with the Code at all times.*

*Section 2.1 of the Code provides that:*

*2.1 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.*

*Whilst the depiction of the cleaning lady in the Advertisement may not be to everyone's liking, Nova does not believe that the Advertisement depicts the cleaner in a way which discriminates against or vilifies any person or group on the basis of their ethnicity or the fact that they are a cleaner, or is otherwise in breach of the Code.*

*The Macquarie Dictionary (4th edition) defines "vilify" as "to speak evil of; defame; traduce". "Traduce" means "to speak evil or maliciously and falsely of; slander; calumniate, or malign" and defines "discriminate" as "to make a distinction, as in favour of a person or thing; to differentiate".*

*It appears from previous decisions of the Advertising Standards Board (which is relatively consistent with the considerations given by the Australian Communications and Media Authority when considering similar issues under the Commercial Radio Codes of Practice) that an appropriate test in these circumstances would be to consider whether an ordinary, reasonable listener drawing on their own knowledge and experience would have understood the Advertisement as discriminating against or vilifying people of ethnic origin or cleaners. In our view, Nova does not believe that it is probable that the Advertisement would cause an ordinary reasonable listener/viewer generally to either:*

(a) regard people of ethnic origin with strong or passionate dislike or make a distinction against them on the basis of their being a cleaner or being of ethnic origin; or  
(b) speak evil of, defame or traduce cleaners or people of ethnic origin.

*We acknowledge that all characters in the Advertisement were portrayed in a “larger than life” way – Fitzzy and Wippa were dressed in traditional aerobics outfits from the 1980s (including legwarmers and headbands), the corporate character was dressed in a very traditional pinstriped suit and the cleaning lady was dressed in a typical cleaning lady dress. Whilst this may be considered by some people as “stereotyping” these characters, there was very clearly no negativity attached to any of the characters and, to a certain, extent, it is necessary in a very short, 30 second ad to identify characters through stereotypical or easy to identify costumes. What is most important in Nova’s opinion is that the ethnicity of the cleaning lady was in no way a determining factor in her casting, nor was the ethnicity of the other characters. The characteristics we were looking for (through third party agencies) was a cleaning lady who was outside of our target demographic of listeners (which is adults aged between 18 and 39) who looked and acted in a way which would be considered as nurturing, warm, friendly and a little bit cheeky (which is a cornerstone of the Nova brand). Her skin colour or ethnicity were not considerations. Her attitude, demeanour and good-humour were. In light of the context in which the Advertisement was broadcast, Nova believes that the majority of its audience would regard the Advertisement as light-hearted, comedic and irreverent.*

*For these reasons, Nova strongly believes that the Advertisement does not breach clause 2.1 of the Code.*

*While Nova does not consider that the Advertisement raises issues under section 2 of the Code, Nova does value feedback on the Advertisement and intends to monitor any similar complaints received in the future to ensure that these advertisements are not offensive to a significant proportion of the community.*

*We would welcome the opportunity to provide any further clarification that the ASB may require in relation to this matter.*

## **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 offensive because it depicts a cleaner as being non Anglo and that this is a stereotypical depiction.

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

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...”

The Board noted that the advertisement depicts a number of people doing aerobic exercise at their workplace and then depicts a person, clearly depicted as a cleaner, dancing to the music as well. The Board considered that the woman depicted as the cleaner is having fun and

dancing and, in the Board's view, there is no negative connotation in the advertisement about being the cleaner. The Board considered that the depiction of a person of a particular racial background as a cleaner was not discriminatory in this advertisement. The Board noted in particular that there is no implication in the advertisement about the relative merits of any of the people depicted and that the cleaner is clearly depicted having fun.

The Board determined that, in this instance, the advertisement did not depict any material that discriminated against or vilified any person or section of society on account of their race or ethnicity. The Board determined that the advertisement did not breach Section 2.1 of the Code.

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