



Case Report

1	Case Number	0105/16
2	Advertiser	Hesta
3	Product	Insurance
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	23/03/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Race

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement promotes HESTA by following one of its members, Sarah Ravine, during an ordinary day in her role as a nurse with Homeless Healthcare, Perth's largest provider of healthcare services to the homeless and marginally housed. Ms Ravine is a team leader of Homeless Healthcare's "Street Health" initiative, which provides medical assertive outreach to homeless people in the CBD and surrounding suburban areas of Perth, and we see her interacting with various patients.

THE COMPLAINT

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

I object to the advertisement as all of the homeless people portrayed are aboriginal. People who are aboriginal are rarely seen on advertising material and this ad portraying disadvantaged homeless people all aboriginal people are portrayed. This is certainly not an accurate portrayal of this population and is highly racist.

THE ADVERTISER'S RESPONSE

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

We refer to your notification of a complaint received by the Advertising Standards Bureau (“ASB”) in relation to H.E.S.T Australia Ltd’s campaign featuring Sarah Ravine, a Perth-based community nurse for Homeless Healthcare and HESTA Australian Nursing Awards winner (“Advertisement”).

H.E.S.T Australia Ltd (“Trustee”) is the trustee of the Health Employees Superannuation Trust Australia (“HESTA”). While the Trustee regrets any offence felt by the complainant, we do not believe the Advertisement is in breach of the AANA Advertiser Code of Ethics (“Code”). We have made detailed submissions below as to why the complaint should be dismissed.

1. About HESTA

HESTA is an industry superannuation fund dedicated to servicing the health and community services sector. As an industry superannuation fund, HESTA is operated by the Trustee to benefit members, not profit from them. It is closely regulated by the Australian Prudential Regulation Authority and Australian Securities and Investments Commission under a number of laws including the Superannuation Industry (Supervision) Act 1993 (Cth) and the Corporations Act 2001 (Cth).

2. The Advertisement

2.1 Background

The Advertisement promotes HESTA by following one of its members, Sarah Ravine, during an ordinary day in her role as a nurse with Homeless Healthcare, Perth’s largest provider of healthcare services to the homeless and marginally housed. Ms Ravine is a team leader of Homeless Healthcare’s “Street Health” initiative, which provides medical assertive outreach to homeless people in the CBD and surrounding suburban areas of Perth.

Ms Ravine and Homeless Healthcare won the “Team Innovation” category of the Trustee’s 2015 HESTA Australian Nursing Award, which resulted in Homeless Healthcare receiving a \$10,000 development grant. Although the Advertisement’s primary purpose is to promote and feature the work of Ms Ravine, nominations for the 2016 HESTA Australian Nursing Awards are currently open, with the Advertisement serving a dual purpose of raising awareness of this significant community award. The award is a HESTA initiative, run in partnership with the Australian College of Nursing and proudly sponsored by the bank owned by industry superannuation funds, ME.

2.2 Description of content and script

The Advertisement is an interview with Ms Ravine during her work day. The Advertisement was unscripted and, aside from Ms Ravine, uncast. Ms Ravine’s interactions with members of the community receiving treatment as part of the Street Health initiative were genuine and unplanned. Only those agreeing to be filmed for the purpose of the Advertisement were depicted.

The Advertisement commences centred on Ms Ravine, discussing her experience as a community nurse. While the Advertisement runs, images of Ms Ravine treating members of the community as part of the Street Health initiative are shown.

Ms Ravine:

I've been a community nurse for about eight years. I wasn't sure when I first started. Didn't enjoy it for a first few months; it was quite confronting. It gets frustrating, it's heart-warming, it's heart-breaking.

It's very rewarding work. I think it's the individual, it's the patient, that you fall in love with. It's probably the best job I've ever had. It's all I've ever done really. Um, I love doing it. I think nursing's a wonderful job.

The Advertisement ends with the words "While you're supporting others, we're supporting you" and a HESTA logo is shown along with the "Industry SuperFund" branding

3. Submissions

For the reasons below the complaint should be dismissed.

3.1 Discrimination or Vilification

The complainant asserts the advertisement discriminates or vilifies on the basis of race due to the Advertisement's depiction of Indigenous Australians receiving treatment as part of Homeless Healthcare's Street Health initiative ("Assertion").

The Trustee rejects the Assertion as:

1. The Advertisement is about Ms Ravine's experience providing community nursing services to the homeless in Perth. At no stage does the Advertisement make any comment about the race or ethnicity of a homeless person receiving treatment as part of the Street Health initiative.

2. The Advertisement is a positive message about a nurse working amongst the community and was filmed during the course of Ms Ravine's working day.

As the Advertisement contains no written or spoken reference to the race or ethnicity of those receiving treatment as part of the Street Health initiative, the complainant could only have determined this on the basis of the appearance of those appearing in the Advertisement. As no formal casting was undertaken, the appearance of those receiving treatment was outside the Trustee's control and instead a function of the filming location on that day, those needing treatment on that day, and those members of the community giving consent to appear in the Advertisement on that day. Accordingly, any depiction of a person appearing to be a particular race or ethnicity is coincidental. Further, nothing in the advertisement implies that the individuals that Ms Ravine meets in the Advertisement is indicative of the broader Aboriginal or homeless population; the Advertisement clearly only depicts specific homeless persons to whom Ms Ravine provides services during a particular working day. The Trustee therefore rejects the complainant's suggestion that the Advertisement portrays all Aboriginal Australians as homeless.

3. The Advertisement does not satisfy the ASB's definitions of discrimination or vilification being:

Discrimination: Acts with inequity, bigotry or intolerance or gives unfair, unfavourable or less favourable treatment to one person or a group because of their race...

Vilification: Humiliates, intimidates, incites hatred towards, contempt for, or ridicule of one person or a group of people because of their race...

No suggestion of discrimination or vilification on the basis of race arises as:

- the Advertisement is not focused on the homeless in themselves, but on the positive work that Ms Ravine and the Street Health initiative are conducting and the support that HESTA can provide to healthcare workers such as Ms Ravine;*
- the Advertisement in no way shows homelessness (let alone indigenoussness) in a bigoted or intolerant light; in fact Ms Ravine expressly states in the Advertisement that her work with the homeless is (among other things) “heart-warming” and “very rewarding”; and*
- the language and imagery of the Advertisement in any event do not obviously identify any particular race and comprise a genuine representation of those members of the community receiving Homeless Healthcare’s services.*

It is clear that there are in the Advertisement no acts of inequity, bigotry or intolerance or anything that depicts unfair, unfavourable or less favourable treatment which may constitute racial discrimination, and no acts of intimidation, hatred, contempt or ridicule which may constitute racial. The Advertisement falls significantly short of the conduct required to satisfy the above definitions.

4. The ASB’s previous decisions support the Trustee’s views that no discrimination or vilification has occurred in this case. Relevantly:

- Case 0046/14: The Board held that casting an actor with a very strong Maori accent did not portray a particular race in a negative or humiliating way.*
- The Trustee submits that the homeless receiving treatment from the Street Health initiative are not depicted in a negative or humiliating way, let alone because of their race.*
- Case 0401/12: The Board considered the casting of an Aboriginal woman to discuss foetal alcohol spectrum disorder (FASD) did not amount to racial discrimination or racial vilification as the message applied to pregnant women of all nationalities and race – and is not exclusive to women of Aboriginal background.*
- The Trustee notes the complainant’s concern that the homeless persons depicted in the Advertisement appear Indigenous. The Trustee submits that homelessness is a factor that affects all nationalities and race. It is not a problem exclusive to Indigenous Australians. Accordingly, no basis for discrimination or vilification on the basis of race arises.*

Further, the Board’s decisions to dismiss the complaints in cases 155/04 and 53/01 illustrate that the depiction of a particular race and even discussing problems affecting that race (such as truancy in case 53/01 and access to services in case 155/04) does not necessarily mean that discrimination or vilification on the ground of race has occurred.

Consistent with the Code Practice Note and the ASB's previous decisions on the issue of discrimination and vilification on the basis of race, the Trustee submits the ASB must dismiss this complaint.

3.2 Objectification

Section 2.2 of the Code prohibits employing sexual appeal in a manner which is exploitative and degrading of any individual or group of people. The Advertisement contains no sexual imagery. We submit this section of the Code is not relevant to the Advertisement.

3.3 Unjustifiable violence

Section 2.3 of the Code prohibits presenting or portraying violence unless it is justifiable in the context of the product or service. No violence is contained in the Advertisement and we submit this section of the Code is not relevant to the Advertisement.

3.4 Sex, sexuality and nudity

Section 2.4 of the Code requires the treatment of sex, sexuality and nudity with sensitivity to the relevant audience. The Advertisement does not contain any sexual imagery. We submit this section of the Code is not relevant to the Advertisement.

3.5 Inappropriate language

Section 2.5 of the Code requires the use of language which is appropriate in the circumstances. The Advertisement contains no offensive or improper language and we submit this section of the Code is not relevant to the Advertisement.

3.6 Health and Safety

Section 2.6 of the Code requires that no advertisement depicts material contrary to prevailing community standards on health and safety. The Advertisement does not show any dangerous or risky activity which is contrary to prevailing community standards. We submit this section of the Code is not relevant to the Advertisement.

3.7 Other Submissions

The Advertisement is about superannuation and is therefore not targeted to children or about food or beverages. Accordingly, none of the provisions of the AANA Code for Advertising and Marketing Communications to Children or the AANA Food and Beverages Marketing and Communications Code apply.

4. Closing

The Trustee thanks the ASB for the opportunity to provide these submissions in relation to the complaint and respectfully asks the ASB to dismiss the complaint.

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 concerns that the advertisement only depicts aboriginal homeless people, misrepresenting the actual picture of the homeless population, and therefore racist.

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

The Board noted that the advertisement follows a community nurse with Homeless Healthcare, during an ordinary day.

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 focuses on the social issue of homelessness. The Board considered that the overall tone of the advertisement was realistic and authentic and the people interacting with the nurse were shown to be appreciative of her assistance and happy to participate.

The Board noted that whilst the advertisement portrays Indigenous people, it is not suggesting that all homeless people are Indigenous and the issue applies to people of all nationalities and race.

The Board noted it had recently dismissed a similar complaint in case 0401/12.

“The Board considered the casting of an Aboriginal woman to discuss foetal alcohol spectrum disorder (FASD) did not amount to racial discrimination or racial vilification as the message applied to pregnant women of all nationalities and race – and is not exclusive to women of Aboriginal background”.

The Board noted that the current advertisement portrays the actual experiences of a nurse working with homeless people. The Board considered that the advertisement shows a positive relationship between all those in the advertisement and does not discriminate against or vilify any section of the community.

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 on account of race.

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.

