

Case Report

1. Case Number :	0133-23
2. Advertiser :	Nova Entertainment
3. Product :	Entertainment
4. Type of Advertisement/Media :	TV - On Demand
5. Date of Decision:	12-Jul-2023
6. Decision:	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.3 Violence

DESCRIPTION OF ADVERTISEMENT

This on demand TV advertisement features three radio hosts going out for lunch. The woman explains to the men that the chicken parmigiana is called a "parma" after the men refer to it as a "parmie". They continue to pronounce it wrongly. At the end of the advertisement they are seen to be wearing electrified collars, and when one of them says "parmie" again the woman presses a button and they receive a shock.



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Very disturbing content and to my knowledge goes against the Australian human rights commission.

THE ADVERTISER'S RESPONSE

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

1. *We refer to your letter regarding complaint reference number 0133-23 (Complaint) made in connection with an advertisement to promote Nova 100's new radio show "Ben, Liam & Belle" (Advertisement).*
2. *You have asked us to address section 2.3 of the AANA Code of Ethics (Code) which 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."*
3. *The Complaint references the use of a cattle prod on humans in the Advertisement. This is incorrect. The Advertisement does not contain a cattle prod, it depicts the apparent use of electric dog training collars.*

Description of the Advertisement

4. *The Advertisement is a 30 second advertisement placed on 9Now, SBS on demand, YouTube, Vevo and in Hoyts Cinemas, to promote Nova 100's new radio show "Ben, Liam & Belle". Belle is a Melbourne local, while Ben and Liam, like the show, are new to Melbourne - having relocated from Adelaide.*
5. *It is well known that Victorians refer to the classic pub meal of a chicken parmigiana as a "parma", whilst the rest of the country refers to the same dish as a "parmy" or "parmi". The advertisement therefore depicts Belle constantly attempting to train new Victorian's Ben and Liam to refer to the dish as a "parma" by correcting their lingo.*
6. *The Advertisement ends with the hosts sitting around a pub table, each about to start eating a chicken parmigiana, when Liam says, "tell you what, I'm glad I ordered the Parmi". Belle then playfully says "nope" and administers a shock to the electric dog training collars placed around Ben and Liam's necks to "correct" them.*

Section 2.3 of the Code - Violence

7. *Nova 100 categorically denies that the Advertisement breaches any section of, or is in any way inconsistent with the requirements of, the Code because:*
 - (a) the use of electric dog training collars on Ben and Liam is merely intended to poke fun at the modification of their behaviour to assimilate in Melbourne;*
 - (b) the collars and remote were deactivated and did not administer any electric shock to Ben and Liam;*

- (c) the suggestion that Ben and Liam are given a slight 'correctional' shock is light-hearted, humorous, and unrealistic, and not intended to convey any suggestion of, or condone, actual violence or pain;*
 - (d) in Victoria, the use of authorised electric dog training collars is legal. These collars are designed to be worn by an animal to assist in the modification of the animal's behaviour and are activated by a person through a transmitter;*
 - (e) it is extremely unrealistic that Ben and Liam would be permitted to be sitting in a pub wearing electric dog collars if they were actually harmful and were in fact, violent.*
8. *Nova 100 submits that any violence presented or portrayed is justifiable in the context of the product or service advertised and, accordingly, that there is no breach of Section 2.3 of the Code.*
9. *We note that in a number of instances, the Community Panel has found that advertising which uses humorous or exaggerated scenes which are clearly fantastical and unlikely to be taken seriously by most members of the community, were not in breach of Section 2.3 of the Code (Westpac Group 0221-20, The Man Shake 0325-20, Frucor Suntory Australia 0228-21, Grill'd 0295-21 and Raiz Invest Ltd 0110-22).*
10. *More specifically, in community panel case number 0217/18, an advertisement alluded to the use of a lie detector which shocked a person who told a lie. In that instance the Community Panel noted the advertiser's response that the shock was administered in a light-hearted manner and was not intended to convey any suggestion of actual violence or pain. Relevantly in that case the Community Panel considered that the humorous and unrealistic tone of the advertisement lessened the suggestion of real or condoned violence, and the complaint was ultimately dismissed.*
11. *Nova 100 submits that:*
- (a) similarly, the suggestion that Ben and Liam are given a slight shock is light-hearted, humorous, and unrealistic, and not intended to convey any suggestion of real or condoned violence or pain; and*
 - (b) that any reasonable viewer would be able to discern that a scene in which Ben and Liam are wearing electric dog training collars at a pub is entirely fictional, and unrealistic.*
12. *Nevertheless, Nova 100 respects the process to be undertaken by Ad Standards with respect to the Complaint and welcomes any feedback or requests for further discussion of the Complaint with Ad Standards.*

THE DECISION

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

The Panel noted the complainant's concern that the advertisement depicts disturbing content.

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

Section 2.3: Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised

The Panel noted that the Practice Note for this section of the Code states:

“Although the depiction of violence in an advertisement may be relevant to the story being told in the advertisement, any violence must also be justifiable in the context of the product being advertised, or else will be in breach of this section of the Code... The results or consequences of violence (e.g. a black eye) and audio representations of violence may also be prohibited.”

Does the advertisement contain violence?

The Panel noted that the Code and the Practice Note do not provide a definition of violence. The Panel noted that they needed to consider whether the general community would consider this ad to portray violence.

The Panel noted that the men are wearing electric dog collars controlled by a remote, which the woman uses to zap them when they say “parmie”. The Panel considered that although the men were not actually given an electric shock, most people would consider this scene, even if obviously staged, to be violent.

Is the violence justifiable in the context of the product or service advertised?

The Panel noted that the advertised product is a radio program.

The Panel considered that the violence in the advertisement was clearly intended to be comedic and was not graphic. However, the Panel noted that the any violence in the advertisement must be justifiable in the context of the product being advertised, and not the scenario depicted in the advertisement.

The Panel considered that the depiction of a someone receiving a painful electric shock was not justifiable in the promotion of a radio program.

Section 2.3 Conclusion

The Panel determined that the advertisement did present or portray violence which was not justifiable in the context of the product or service advertised and did breach Section 2.3 of the Code.

Conclusion

Finding that the advertisement did breach Section 2.3 of the Code, the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DECISION

We confirm that the advertisement the subject of the complaint has now been discontinued.