



Ad Standards Community Panel
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Advertising Standards Bureau Limited
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Case Report

1	Case Number	0152/18
2	Advertiser	NSW EPA
3	Product	Community Awareness
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	11/04/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Race

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a young man and woman picnicking in the park. They get up to leave and see their picnic litter on the ground. They shrug and walk away, leaving their litter behind. As they walk away, their litter begins to follow them, sticking to their clothing and body. They are chased by the litter, watched by 2 women who are also picnicking. They stand in front of a bin with their picnic litter on them and tentatively pick off a piece and put it in the bin. It doesn't come back to stick on them. They smile with relief and begin to pick off their litter and put it in the bin. End screen says "Don't be a Tosser. If its not in the bin its on you".

THE COMPLAINT

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

All the people cast in the ad are brown skinned. There a no Caucasians. It feels like they are targeting migrants and first generation Australians as litter bugs. I think it's admirable that the EPA has included actors who are not white in their advertising. However, Australia is not yet sophisticated enough to discern that people of all races litter. As such, the ad looks to be saying - those people from overseas, the



immigrants, the refugees, those others - they come here and steal our jobs and they litter. Thankfully the white woman was there to watch it all happen and correct their behaviour. Frankly - it comes off as racist from the EPA. Suggesting that foreigners (because all non-whites are foreign in the eyes of most Australians) are ruining the country.

It would have been better if the couple, or better yet a group of friends of mix race and gender was used, with no-one watching and judging from afar.

I note the website uses multiple demographics and ethnicity's, it's unfortunate the mass media communicate seems to be mildly racist.

I believe this commercial purposely profiled the "tossers" as dark skinned and would be interested to see their casting calls for this advertisement.

THE ADVERTISER'S RESPONSE

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

Responses to all parts of Section 2 of the AANA Code of Ethics:

2.1 Discrimination or vilification

The new Don't be a Tosser Advertising Campaign.

The Don't be a Tosser! campaign is new in 2017-18 and follows on from the Hey Tosser! campaign which has been live in NSW since 2014. The target audience is broad - adults 18+.

New creative materials have been designed to convey the campaign messages. They are bright, bold, energetic and use irony and humour. They use visual devices to reflect an internal dialogue that littering is not comfortable or nice, and you can easily solve that feeling by putting your rubbish in the bin.

Social research informed the design of the campaign. Some of the key lessons from the social research are:

Everyone knows litter is wrong

The social norm is to litter surreptitiously when you think no one is looking

There is no 'typical litterer'.

That is, everyone can litter something, somewhere, some time.

The social research reports relied on for these findings, and the design process of the campaign are listed under the background heading at the end of this response.

How the characters were chosen for the campaign



Research shows that anyone can be a litterer and that there is no 'typical' litterer. Therefore, a range of characters, representing people across all NSW demographics and regions, have been featured in the campaign. The campaign targets everyone, because anyone can be a litterer. Extras included in the TV spots were also selected based on cultural diversity to ensure a true representation of the NSW community.

Different cultures are represented in different materials. It may be that the complainant saw one ad only. There are three TV ads in circulation, each showing a different part of NSW's cultural diversity. Casting decisions were driven by the need to express the range of cultures in NSW.

The NSW Government Handbook states that, " ...agencies should be sensitive to the cultural and linguistic diversity of people within their target audiences. New South Wales is one of the most culturally and linguistically diverse states in the world. NSW Government communication materials, including government advertising campaigns, are to depict the diverse nature of NSW society in a fair, representative and inclusive manner and be consistent with the Multicultural Principles that are the policy of our state."

The 'excuses' used in the campaign

"I'm not a litterer, I only do it sometimes"
"It's not a big deal, someone else will pick it up"
"I know it's wrong, so I do it when no one is watching."
"I didn't know I could get fined."
"I toss my butts, they're not a big deal."
"There isn't a bin, what else can I do?"

The most commonly used excuses for littering were taken from pre and post-campaign research, since 2012. These excuses were tested in focus groups during the campaign development. The excuses used in the campaign were the most effective excuses identified during that research. They provided the best balance between making participants feel guilty for their actions (littering), while also making them think: That really is a ridiculous excuse. There is no excuse for my actions (littering). The answer is simple – to put it in the bin.

CALD (culturally and linguistically diverse) communities

The EPA has also developed campaign materials for CALD audiences.

The CALD creative messaging is part of the 'Don't be a Tosser! If it's not in the bin, it's on you' campaign. However, the messaging is more direct, encouraging people to 'Put your rubbish in the bin' rather than using the phrase 'Don't be a Tosser! If it's not in the bin, it's on you' as this does not translate clearly.



The CALD materials translate the campaign content – e.g. commonly used excuses for littering – in terms that make sense in each of these languages.

The CALD creative is available in the top four languages other than English spoken in New South Wales – Arabic, Vietnamese, Mandarin and Simplified Chinese.

Television Commercials

Three version of the television commercial were produced using the hero figures from the print campaign to ensure age, gender and cultural diversity. The complaint specifically refers to the Picnic version. Key and CAD numbers are provided with each commercial. All are rated G.

Generic 30” TV spot:

Key Number EPATSSR30GEN

CAD Number G5JAKGOA

Rated G

Picnic 30” TV spot:

Key Number EPATRRS30PIC

CAD Number G5JALGOA

Rated G

Report a Tosser 15” TV spot:

Key number EPATSSRREP

CAD Number G5JAJAGOA

Rated G

2.2 Exploitive or degrading

No content in the campaign is exploitive or degrading

2.3 Violence

No violence is contained in any of the campaign materials

2.4 Sex, sexuality and nudity

No campaign materials contain sex, sexuality or nudity

2.5 Language

Why the EPA uses that word ‘Tosser’.

The ‘Don’t be a Tosser! If it’s not in the bin, it’s on you’ campaign message was built on the previous ‘Don’t be a Tosser!’ and ‘Hey Tosser!’ campaigns run in NSW in 2000 – 2003 and 2013 – 2017 respectively.



The message was researched through urban and regional focus groups in 2012, where the 'Tosser' concept was the most effective litter message tested. People considered it a clever play on words and thought it summed up how people feel about litterers.

Further research in 2017 found:

The 'Tosser!' concept still has significant potential. 94% approve of the 'Tosser!' message (Anomaly post campaign research April 2017).

The 'Tosser!' concept is well-liked and there is a strong association between a 'tosser' and littering.

Language for non-English speaking and indigenous communities

The EPA has developed campaign materials for culturally and linguistically diverse (CALD) communities, as part of the 'Don't be a Tosser! If it's not in the bin, it's on you' campaign.

However, the messaging is more direct, encouraging people to 'Put your rubbish in the bin' rather than using the phrase 'Don't be a Tosser! If it's not in the bin, it's on you' as this does not translate clearly.

The CALD materials translate the campaign content – e.g. commonly used excuses for littering – in terms that make sense in each of these languages.

Litter campaign materials have also been developed for indigenous communities:

2.6 Health and Safety

There is no breach of the Work Health and Safety Act 2011 or the Work health and Safety Regulation 2017 contained in the campaign material

2.7 Distinguishable as advertising

All advertising material is clearly distinguishable as NSW Government Advertising and branded accordingly

Additional information about the Don't be a Tosser campaign

How the campaign was developed

First rolled out as the 'Hey Tosser!' campaign in 2014, the EPA's anti-litter campaigns have achieved excellent results, raising awareness of the litter problem to an extremely high degree.

However, research commissioned in 2016 showed that the 'Tosser!' concept needed to



be reinvigorated to further develop the conversation with the community.

Some key findings from research:

The Tosser! concept still has significant potential. 94% approve of the Tosser message. The Tosser! concept is well-liked and there is a strong association between a 'tosser' and littering.

Key littering behaviours and attitudes remained unchanged – people know littering is wrong and they do it when they think no one is looking.

The campaign needs to build the credibility of being fined, and convey that reporting is important.

The campaign needs to overcome the perception of reporting being 'un-Australian', or hypocritical.

Key behaviour to focus on is littering when no-one is looking, because that is the social norm.

The new campaign allows the audience to identify with the litterer, not the witness.

Campaign objective

The objective of the campaign is the same as previous phases, to establish a new social norm in NSW to not litter.

Campaign Concept

The campaign is based on research (IPSOS, Hey Tosser Research, 2017 and Anomaly post campaign research, 2017) that shows the need to continue and evolve the conversation with the community about litter. The new campaign builds on the 'Hey Tosser!' approach and moves the conversation into an internal dialogue.

The aim is to make the audience recognise themselves and feel something. Having an emotional or humorous reaction will help to cement the campaign image and message in their mind and do the right thing.

Key components of the new campaign:

The campaign focus is designed to place responsibility for littering on the individual, to encourage people to think about their actions.

The concept is playful and eye catching, with the reintroduction of the 'Don't be a Tosser!' messaging.

This message gives people a choice to NOT be a 'Tosser!' – with the tag 'Don't be a Tosser!' reinforcing positive behaviour.

Use of humour allows for a stronger message.



The campaign employs a number of 'excuses' that have been devised (and tested) to reflect what litterers say to themselves to justify their littering.

Excuses are used ironically, stating the silly excuses we use to litter.

The tagline 'If it's not in the bin, it's on you' is a friendlier method of saying 'put it in the bin'.

Why this campaign is required

The NSW Premier has established 12 Premier's Priorities for NSW, one of which is to reduce the volume of litter in NSW by 40% by 2020 (www.nsw.gov.au/making-it-happen). This is an ambitious target, requiring focus and commitment over a period of years. It reflects the high level of community concern regarding litter, stemming from harm to the environment, destruction of local amenity and the association with other anti-social behaviour. Litter damages our natural environments, harms wildlife and sea creatures, can injure people and makes our spaces less safe and healthy.

The Environment Protection Agency (EPA) is the lead agency delivering the Premier's Priority to reduce the volume of litter in New South Wales.

Litter education and awareness campaigns are an essential element of successful litter reduction. The 'Don't be a Tosser!' campaign is cost effective because it leverages the use of 'Don't be a Tosser!' by local councils as well as partnerships with Transport for NSW, Roads and Maritime Services, McDonalds, Caltex, and Woolworths.

How is an education campaign going to stop littering?

The campaign is part of an integrated approach to litter prevention. It will raise awareness and educate communities, and works in combination with clean-ups, enhanced enforcement or compliance activities and improved infrastructure such as new butt bins and litter bins. The ultimate outcome is behavioural change.

The integrated approach to litter prevention focuses on five elements:

Rewarding responsible behaviour (through the Return and Earn refund scheme for drink containers)

Raising awareness of the issue and public education (through state-wide media campaigns such as Don't be a Tosser, council grants, and partnerships with government and business organisations)

Ensuring better infrastructure and clean ups (such as installing better bins and signage through council and community grants and through other stakeholders).

Enforcement of litter laws (through enforcement training for local governments and state departments, and the Report to EPA system of community reporting).



Robust monitoring and evaluation (so we can best learn about what works and why).

Key findings from the littering social research

The EPA has conducted significant social research into littering attitudes and behaviours over 20 years, with particular focus since 2012. It has also run focus groups on all proposed campaign material. It is worth noting that no focus group participant raised racial vilification issues at that time.

The research underpinning the Don't be a Tosser campaign includes:

Littering Strategy 2011-2016 research on attitudes, knowledge and behaviour prepared for the Office of Environment and Heritage – IPSOS Social Research Institute, 2012

Litter Creative Testing, Leading Edge, 2012 prepared for Office of Environment and Heritage

Hey Tosser Pre-Campaign Litter Research, Marketing Sciences Australia, 2013

Hey Tosser Post Campaign Research Results, Anomaly, 2014

Hey Tosser Post Campaign Research Results 2015, Anomaly, 2015

Hey Tosser Social Listening Campaign Report, Universal McCann, 2015

National Litter Index Annual Reports, various from 2010-11 to 2016-7, Keep Australia Beautiful

Report NSW EPA and RMS Audit of marine and harbour foreshore litter (in draft), A. Prince Consulting, 2015

Hey Tosser! Mid Campaign Research 2016, Anomaly

Post Campaign Report 2016, Society

Hey Tosser! Post Campaign Research 2016, Anomaly

Litter Costs to the NSW Economy- 2015, MRA Consulting Group

Litter Prevention Program 'Hey Tosser!' Campaign Creative and Messaging Social Research Draft report – IPSOS Social Research Institute 2017

Hey Tosser! Post campaign research results 2017, Anomaly.

Litter Creative Testing Research Draft Report July 2017, IPSOS Social Research Institute 2017

Hey Tosser! Post Autumn campaign research results 2017, Anomaly

Key research findings include:

All research participants said they were less likely to litter if they were being watched. Reasons participants gave for their own littering included: lack of bins, laziness and a general lack of awareness about the environmental impacts.

People are more likely to litter at places where they think they won't be seen such as on transport and at bus stops and less likely to litter somewhere clean, well-looked after and where there is no graffiti and vandalism.

People perceive biodegradable or 'natural' litter, like paper, cardboard, fruit peels, and other food as more acceptable, while harmful or non-biodegradable litter such as syringes, nappies and broken glass are viewed as the most unacceptable.



Apart from biodegradable waste, the most common form of self-reported littering behaviour was dropping items from a car window.

People are more likely to litter cigarette butts than any other item because they are small.

People are less likely to litter if a bin is close to where they need it and if they understand how and where their litter ends up.

There is no typical litterer. Everyone may litter something, somewhere, some time.

Who cares about the environment and litter?

The NSW community consistently identifies littering as an area of environmental concern. Focus groups consistently show that people are not only supportive of, but also expect the government to take the lead on this issue. Research shows that the NSW Government is seen as a reliable source of information.

People are already doing the 'right thing'. Why run another campaign?

Research shows that although most people know that littering is wrong, most people also litter something, somewhere at some time. Research also shows that people are more likely to litter if they think they aren't being watched, hence the call-out 'Don't be a Tosser! If it's not in the bin, it's on you' in the NSW Government's litter campaign.

The campaign reinforces the right behaviour, which is required until desired social norms are established.

THE DETERMINATION

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 complainants' concerns that the advertisement discriminates against race.

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

The Panel 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 Panel noted this television advertisement features two people leaving a picnic in the park. As they leave, their litter flies after them and sticks to them, until they put it in the bin. Two Caucasian women are shown watching.



The Panel noted the complainants' concern that the advertisement is racist because it implies that only migrants, indigenous persons and/or mixed race people litter.

The Panel noted the advertiser's response that the advertisement was one of a series, each showing a different part of NSW's cultural diversity, and that different cultures are represented in different advertisements.

The Panel considered the advertiser's response that the aim of the advertisement is to make the audience recognise themselves in the characters.

The Panel noted that the intention of the advertisement is to increase awareness in the community of the importance of putting rubbish in bins, particularly cigarettes. The Panel noted that the message being delivered is clear and that the reaction of the witnesses confirms the negative association to the act of littering and is not a direct attack on the person littering but rather the act of littering itself.

A minority of the Panel considered that the advertisement reinforces negative stereotypes of non-anglo persons, such as that they're dirty and lazy. The minority considered that the two Caucasian women watching the unacceptable behaviour added to the implication of non-anglo people being the only ones that litter. The minority considered that presenting a mixed-race couple or group in the advertisement may have lessened the perceived discrimination identified by the complainants.

The Panel considered the advertiser's response that as there is no 'typical' litterer, a range of characters representing people across all NSW demographics are featured in the campaign.

A majority of the Panel considered that the broader message is that littering is not acceptable to be done by any member of the community, and that the focus of the advertisement is on the litterers and the implication of their action in initially leaving their rubbish behind. The majority considered that the individuals depicted in the advertisement were not focus of the advertisement due to their ethnicity, but by their actions in making a conscious decision to not put their rubbish in the bin.

The Panel considered the advertisement did not portray material in a way which discriminates against or vilifies a person on the basis of race and did not breach Section 2.1 of the Code.

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

