



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0154/11</b>
<b>2</b>	<b>Advertiser</b>	<b>EFTPOS Payments Australia Ltd</b>
<b>3</b>	<b>Product</b>	<b>Finance/Investment</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>25/05/2011</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

- 2.6 - Health and Safety within prevailing Community Standards
- 2.2 - Violence Domestic violence
- 2.2 - Violence Other
- 2.1 - Discrimination or Vilification Other
- 2.1 - Discrimination or Vilification Sex
  - Other Causes alarm and distress

### DESCRIPTION OF THE ADVERTISEMENT

Various reasons are given for using Eftpos rather than cash when shopping: you don't know who touched the cash before you (a man with a boil on his neck illustrates this point), your wife might get upset if you use credit (a man buying a frying pan illustrates this), and you might run out of money to pay a taxi driver.

### THE COMPLAINT

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

*I object to the advertisement for two reasons:*

- a) the voiceover and what was said and implied as to why the taxi driver was let go creates a suggestion that the passenger's inability to pay would result in them being subjected to violence. This is contrary to any accepted practice and suggests that someone may commit an action which might violate criminal law if the passenger was unable to pay.*
- b) the direct suggestion that the taxi driver has anger issues and that he might commit a violent act could be seen especially in light of recent events and media reporting in Western*

*Australia that all taxi drivers are prone to violence. It paints an unfair and unjust picture of all members of employees within an industry.*

*We were eating when we first saw the ad and apart from making us feel nauseous we don't believe that this is an appropriate way to advertise EFTPOS. It is scare tactics about something that would rarely occur.*

*Quite a negative characterization that could easily reinforce some stereotypes of cab drivers which are quite prevalent in society. Having worked in this industry out of necessity when out of work in my profession this ad gave me the creeps. So many drivers are attacked as they are not respected by elements of our society and the message this ad gave was quite disturbing. I have had passengers threaten me in the past in scenarios similar to that in the ad and found its contents offensive but more than that I think it could encourage a fringe element to step over the line.*

*Apart from that it was a nasty ad without any particular merit.*

*Instead of focusing on the product (which was a credit card or eftpos) it seemed to focus on the brutality of taxi-drivers suggesting that violent criminals are driving our taxis. It shocked me and would put me off catching a taxi...*

*I think this is a rude and unethical TV commercial. You cannot catch any disease just by handling money. There are heaps of Australians out there with skin and other conditions and this ad uses scare tactics to vilify fellow Aussies and spread myths. Look at how the actress looks at the man in disgust rather than showing some sympathy. This is "the Australian way"?*

*I say no way eftpos.*

*What a poor, embarrassing job M&C Saatchi.*

*I also think the ad violates §2.1 of the AANA Advertisers Code of Ethics which is referred to in §1.11 of the Commercial Television Industry Code of Practice.*

## **THE ADVERTISER'S RESPONSE**

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

### *Campaign structure*

*This series of commercials was developed to humorously depict the situations where everyday Australians would 'be better off with eftpos.'*

*We feature, in turn:*

- A young woman having forgotten her make-up on the way to work*
- A woman in a chemist, waiting her turn to pay*
- A young man in a taxi late at night*
- An older man buying his wife a birthday present*

*In each of these situations, we hear a voice over that effectively comments on what each of our talents is thinking in their individual situation. It is this voicing of their thoughts that provides the humour: we are gaining insight into their deliberations as they deal with a situation that is less than ideal.*

*Using Humour*

*We understand that individuals react to humour in very different ways. Given the broadness of our target market (most Australians carry an Eftpos card), we knew it was extremely important to test the campaign before it went to air.*

*We commissioned an independent research company that conducted groups amongst a broad demographic, from 25 to 55 years and from a wide variety of backgrounds.*

*The response to the idea was universally positive, with respondents describing the campaign as ‘memorable, Australian, funny.’*

*More importantly, they also referred to the individual situations as ‘empathetic and humorous’; stating that they could identify with the situations depicted themselves.*

*These findings confirmed our belief that the humour was clearly understood, and that respondents felt that the subject matter was engaging and empathetic.*

*Compliance to Section 2 of the Code of Ethics*

*2.1 Discrimination*

*2.6 Health and Safety within prevailing Community Standards*

*2.2 Violence (Domestic Violence)*

*2.2 Violence (other)*

*The complaint refers to the Eftpos ad where a young woman is waiting in line at the chemist waiting for her turn to pay.*

*The complainant states that the commercial implies that ‘you can catch a disease through handling cash.’ This is clearly not stated at any point in the commercial. The voice over actually reads:*

*MVO: The man in front of you is buying ointment for a boil. He’s been scratching all night. And he’s paying with a \$20 note. If you use cash now, whose note will you get back in your change?*

*The young woman featured was deliberately cast as a fastidious, timid character. Her reaction (when confronted by a particularly unpleasant and clearly comedic boil) is typical of the kind of person she is.*

*In relation to section 2.2 of the Code the ad does not offend community standards on health and safety. The ad really does not make any claims or statements about serious health and safety issues. It is merely a representation of the young woman’s sense of unease at the exaggerated boil in a humorous fashion. If anything, the overwhelming majority of the public viewing this ad would understand the type of reaction which the young woman experiences. The complainant also cites Section 2.1 of the Code. We do not believe that the protagonist’s reaction to (a clearly over the top) boil represents vilification or discrimination of a person or section of the community. It is more a reflection on her personality and is an involuntary reaction to the sight of the exaggerated boil, than that of the man with the boil (who after all is presented in the ad as doing something about his problem). The man with the boil is not ridiculed or vilified or singled out in any way.*

*There is a difference to portraying the way that people can be turned off by the sight of a boil in an everyday situation as opposed to an ad, which incites people to shun those with skin diseases.*

*These complaints refer to the ad featuring the young man in a taxi late at night.*

*The complainants raise two issues in relation to the Taxi scenario:*

*1) The commercial implies that inability to pay the fare will result in violence*

*Again, the commercial is relying on humour and hyperbole to demonstrate how we all rely on Eftpos. The taxi driver is clearly unhappy that his customer has no cash (and has every right to be) but at no point is any violence shown nor is any violence clearly suggested. The ad therefore is not contrary to section 2.2 of the Code that ads “shall not present or portray violence unless it is justifiable in the context”.*

*The ad clearly conveys the problem of not having any payment available after the service has already been delivered and the voice over refers to the driver previously having 'anger issues' but anger does not automatically imply violence. The most that can be said is that difficulty, danger and some menace is suggested but not necessarily violence.*

*In any event the possible anger and the menace which is shown in the ad is "justifiable in the context" given that the taxi customer has neglected to pay for the service. The ad does not display taxi drivers as likely to carry out random attacks on customers for no reason or that taxi drivers are dangerous*

*Lastly it is important to remember that the overall tone of the ad is humorous and light hearted, through the combination of the slightly silly and awkward taxi customer, stern faced taxi driver and the ominous voice over. It is not a sombre presentation of the dangers of taxis like a community service announcement.*

*2) The commercial paints an unfair and unjust picture of employees within an industry. The complainant states that the commercial directly suggests that all taxi drivers are prone to violence. This is patently untrue. This is clearly a one-off situation, with a single driver and certainly does not make general comment on the taxi industry and its employees. Nor is the ad telling us that all young males are irresponsible when it comes to paying for taxis.*

*The ad is about the awkwardness of not having the money to pay for a service – conveyed in an exaggerated way for effect. Any number of situations could have been used to convey this. The taxi driver is presented as serious and stern as a humorous contrast to the silly taxi customer. We submit that the public understands this. Comical ads are not necessarily taken at face value and are not treated as depictions of real life or as prescriptions for appropriate conduct.*

*In addition, even if a member of the public decides to treat the ad somehow as a real life depiction of taxi drivers (despite the humorous tone of the ad and fact that the ad is about Eftpos as a method of payment) the taxi driver's conduct is shown in some context.*

*The taxi driver in question does have a history of anger issues and he is justifiably angry that he is not going to be paid. Viewers are not left with the message that taxi drivers are bad people or prone to violence.*

*The complainant refers to the scenario featuring a man buying a frying pan for his wife. They state that the commercial discriminates against men, implying that domestic violence would ensue if he used credit.*

*The humour and the irony in the situation is that the man is taking the time to buy a 'fancy' frying pan which he is not really interested in and he is a little clueless yet he could face some consequences from his wife if he goes over his credit limit despite his efforts.*

*Again, the commercial is using humour to underline the reason why our man would be better off using Eftpos than credit. He is considering frying pans and the voice over is really suggesting he could get into trouble with his wife if he goes over his credit limit. His 'flinch' as the voice over says 'she may find a whole new way to use it' is not as a result of the threat of violence. It is simply a visual nod to his thinking as he weighs up the pros and cons of purchasing the pan. Really the line 'she may find a whole new way to use it' is just an exaggerated way of saying (for comic effect) he may get into trouble with his wife if he overspends. It would be a common sentiment expressed by long standing married couples. There is no clear portrayal of violence nor is there any sense from the ad that violence is condoned. Therefore we cannot see how section 2.2 of the Code is breached.*

*In conclusion, we believe that this campaign does comply with both the letter and spirit of the Code of Ethics. We do understand that humour is directed by personal taste and that some viewers may not find the campaign as amusing as others. Although we respect the right of viewers to complain about ads, which they may find objectionable in some way, the views*

*expressed in the complaints do not represent the community standards which are protected under the Code.*

*It was for this very reason that we tested the ideas with a broad range of consumers to ensure that we were not missing the mark. Their responses clearly demonstrated that the campaign was taken in the right spirit and did not offend their sensibilities.*

## **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 suggests taxi drivers are violent, implies a man’s wife will use a frying pan to assault him, and uses scare tactics to encourage viewers to use Eftpos rather than cash.

The Board noted that the advertisement featured various situations where using Eftpos to pay for a service could be preferable to using cash.

The Board first 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, sex, age, sexual preference, religion, disability or political belief.'

The Board noted that the voice over in the advertisement suggests that the taxi driver lost a previous job because of ‘anger issues’ and he is then shown activating the central locking of the taxi when it appears that the male passenger does not have money to pay the fare. The Board considered that this depiction, whilst suggestive of the taxi driver being angry about potential non-payment, does not discriminate against taxi-drivers per se as there is no suggestion that the taxi driver’s behavior is common to taxi drivers.

The Board noted that the advertisement also features a baby crying when a lady without makeup smiles at him, and that the accompanying voice over says that the lady needs to buy some make up before going to work at the kindergarten or else she will frighten the children. The Board considered that the voice over was referring just to the woman in the advertisement and not to women in general, and that the advertisement was not suggesting that all women should wear makeup.

Based on the above 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. The Board determined that the advertisement did not breach section 2.1 of the Code.

The Board considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised."

The Board noted that a man buying a frying pan considers that his wife could find an alternative use for the pan if he were to go over the limit of his credit card. The Board noted a mild implication that the man's wife would hit him with the frying pan. The Board also noted that when the taxi driver locks the car doors to prevent the passenger from leaving the vehicle, the accompanying voice over implies that the taxi driver has anger issues. The Board considered that although the taxi driver does not speak or make any obvious threats to the passenger, this depiction had sinister undertones.

The Board noted that although the advertisement suggests the use of violence, the provisions of the Code cover violence which is presented or portrayed and not suggestions of violence.

Based on the above the Board considered that the advertisement did not present or portray violence and did not breach section 2.2 of the Code.

The Board then considered whether the advertisement was in breach of section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Board noted the depiction of the man who touches the boil on his neck and then handles money, and the accompanying voice over which points out that you never know who has handled money before it passes to you.

The Board considered that whilst some members of the community could find this depiction to be unpleasant, it is not a depiction of material contrary to prevailing community standards.

The Board considered that, in this instance, the advertisement did not depict material contrary to current prevailing community standards on health and safety and therefore determined that the advertisement did not breach Section 2.6 of the Code.

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