



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

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| 1 | Case Number | 0156/18 |
| 2 | Advertiser | IBM |
| 3 | Product | Information Technolo |
| 4 | Type of Advertisement / media | Internet |
| 5 | Date of Determination | 11/04/2018 |
| 6 | DETERMINATION | Dismissed |

ISSUES RAISED

2.1 - Discrimination or Vilification Race

DESCRIPTION OF THE ADVERTISEMENT

The advert is a digital ad promoting IBM data security which includes the image of an African American man with the words "Be known for your breakthroughs, not your break-ins."

THE COMPLAINT

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

A black man is depicted with the words: "Be known for your breakthroughs, not your break-ins". It's racial stereotyping.

THE ADVERTISER'S RESPONSE

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



IBM's response to Complaint 0156/18 outlined by Ad Standards' letter dated 20 March 2018 is set out below:

Background and supporting documents

Complaint 0156/18 (the Complaint) raises issues under section 2.1 of the AANA Advertiser Code of Ethics (the Code). Section 2.1 of the Code states:

2.1. Advertising or Marketing Communication 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, gender, age, sexual preference, religion, disability, mental illness or political belief.

Specifically, the Complaint identifies that the reason for concern was "racial stereotyping".

IBM takes its legal obligations very seriously and, in particular, has a rigorous review process in relation to all of its advertising materials. This includes internal review plus external legal review. Further, IBM has a very strong commitment to diversity and is stridently opposed to racial stereotyping or racial vilification of any kind.

IBM has considered the allegations subject to the Complaint and for the reasons set out below, submits that the Complaint should be dismissed.

In order to support the reasons set out in this response, we have included the following materials with our response:

- evidence of use of the Talent in other advertisements for IBM in the last 12 months;*
- a copy of IBM's Diversity & Inclusion Policy and materials regarding this; and*
- a copy of the WPP company Diversity Handbook (Ogilvy is a part of WPP AUNZ).*

The advertisement the subject of the complaint (the Advertisement) was one of a number of advertisements generated to promote IBM's "Security" products and services in connection with cyber-security and data. The Advertisement was launched as a result of the introduction of the Notifiable Data Breach scheme under the Australian Privacy Act.

The Advertisement was run in Australia as digital advertising from the 19 February 2018.

IBM and Ogilvy's commitment to diversity

IBM is a multinational technology company which employs nearly 400,000 employees worldwide. It is deeply committed to diversity and equal opportunity and diversity is integral to its values and business practices. IBM has been awarded for its approach to diversity a number of times, including being ranked in the top 10 companies for people with disabilities, LGBT and global diversity by Diversity Inc. Included with this response



is IBM's Diversity & Inclusion Policy and materials regarding this policy. IBM's global diversity approach is also outlined in videos found at the URLs <https://www.youtube.com/watch?v=RuiObEf6G7k> and <https://www.youtube.com/watch?v=cHPhuo4NtmY>.

Ogilvy, as part of the WPP group, is equally focused on and committed to diversity. Ogilvy does not tolerate discrimination of any kind, and employees have a number of obligations to maintain and encourage a workplace inclusive of difference and free from discrimination. This is outlined in the WPP Diversity Handbook, which is included with this response. Further details on Ogilvy's diversity policies can be found at the URLs <https://www.ogilvy.com/diversity-inclusion/> and <https://www.ogilvy.com/tag/workplace-diversity/>.

Neither IBM, nor its advertising agency Ogilvy, would intentionally engage in any conduct that would be contrary to these diversity and inclusion policies. Specifically, neither organisation would intentionally design or publish an advertisement that would display racial stereotyping or the incitement of racial vilification. Both IBM and Ogilvy take the Complaint very seriously, and are extremely concerned that the Advertisement has been interpreted by the complainant in this way.

Advertisement brief and audience

IBM strongly rejects the assertion that the Advertisement breaches section 2.1 of the Code. The Advertisement does not portray discrimination or vilification of a person on account of their race, as implied by the Complaint. As outlined in the below submissions, the message "be known for your breakthroughs, not your break-ins" is entirely unrelated to "break-and-enter" criminal activity. Instead, the message relates to data breaches and security attacks, and the Advertisement does not give an impression to the contrary.

The Advertisement was created to promote IBM's Security products and services in the wake of the introduction of the Notifiable Data Breach scheme under the Australian Privacy Act. The scheme established requirements for entities in responding to data breaches.

In this context, IBM's brief for the Advertisement provided to Ogilvy was:

The brief should propose advertising tactics that elicit an emotional reaction from the audience; one that drives them to act quickly to engage IBM and ensure their business (and their personal pride & reputation) are protected in the lead up to the new legislation. Innovative media formats and activities should be utilised, but not to the detriment of the "sincere" message we are articulating. The communications should demonstrate that IBM are not only a trusted partner, but also the industry's leading security provider.



In its brief, IBM identified the Advertisement's audience to be company board members and senior executives who want to be informed at all times of factors that impact the governance of their organisations. The audience's current topics of interest would include AI and cyber-security, though most do not believe that they will be the victim of a security attack. With this audience in mind, Ogilvy created the Advertisement to appeal to a professional audience who may be concerned that their organisation could be a victim of a data breach or security attack.

With this information, Mindshare, the media buyer for the Advertisement, developed a media strategy and plan to target IT Security Professionals, Board Members and Senior Business Executives across all Australian industries. This included both direct deals with the Australian Institute of Company Directors and the Australian Financial Review, as well as the development and targeting of data segments for each audience across biddable display media.

A data breach or security hack would be considered a "break-in" of an organisation's data security measures and infrastructure. It is in this context that the message "Be known for your breakthroughs, not your break-ins" was designed. The context is easily recognized in the Advertisement itself. The third frame of the Advertisement identifies that the message is in connection "with changes to the Privacy Act". It also refers to "risk" and asks the audience to "secure your business now". As a result, the Advertisement is easily distinguished as an advertisement in connection with security of a business' privacy measures, and as such the message was not positioned as relating to a physical break and enter crime situation and would not be misconstrued to have a racial motive. This is particularly likely as the audience for the Advertisement would recognise the message as relating to data security products, especially given the global reputation IBM and its business.

In addition, the website linked to the Advertisement, found at the domain <https://www-03.ibm.com/security/au/en/campaign/ndb.html>, is particularly focused on how IBM's Security offerings can assist customers navigating the introduction of the Notifiable Data Breach scheme. This further communicates to any customer that the Advertisement could only be referring to data breaches or security hacks.

Use of the Talent

The actor appearing in the Advertisement (the Talent) is used in all of IBM's Security related advertising globally, and has been since May 2017. With this response we have submitted copies of other advertisements using the same Talent in respect of IBM's Security products and services. His picture was taken as part of the new campaign between 13 - 15 May 2017. The Talent features across a number of advertising concepts globally (including the campaign website landing page), and the use of the Talent is not limited to Australia or the Notifiable Data Breach related advertising.

The Talent was chosen to represent a professional working in a corporate environment



and was used for the Advertisement on the basis that the Advertisement was promoting IBM's Security products and services as part of its broad campaign. The Talent was not selected for any other reason, and there was no question whether the ethnicity of the Talent was appropriate.

The use of the Talent across all of IBM's Security offerings supports our submissions that the message within the Advertisement was not designed to convey a message specific to a particular race.

In addition, we submit that the Advertisement does not support the argument that the Talent is racially stereotyped as someone involved in crime, as the Talent is dressed in a professional way and designed to appear as an office worker and consequently would not be perceived as someone involved in any criminal activity.

Multiple reviews

Multiple representatives of Ogilvy and IBM reviewed the Advertisement prior to publishing. For example, Ogilvy confirms that 5 members of its Australian staff reviewed the Advertisement, 3 staff of its Regional team (Singapore), and 2 staff of its Global team (New York). None of Ogilvy's staff identified any problems with the Advertisement, its message or use of the Talent. In addition, 4 members of IBM's staff reviewed the Advertisement in Australia, and 1 staff member in Singapore. As with Ogilvy, none of IBM's staff identified any concerns with the message or use of the Talent.

In addition, IBM seeks legal review on all of its advertising material, including the Advertisement. We sought legal review of the Advertisement from our legal representatives, Ashurst, who did not identify any concerns in respect of the message in the Advertisement.

Response in respect of Sections 2.2 – 2.7 of the Code, and other applicable Codes
IBM submits that the Advertisement complies with section 2 of the Code in its entirety. Below is a short summary of our submissions regarding the remaining provisions of section 2 of the Code:

- Section 2.2: the Advertisement does not employ sexual appeal;*
- Section 2.3: the Advertisement does not present or portray violence;*
- Section 2.4: the Advertisement does not refer to or imply sex, sexuality or nudity;*
- Section 2.5: the Advertisement includes appropriate language for all circumstances and audiences, and does not use strong or obscene language;*
- Section 2.6: the Advertisement does not depict material contrary to Prevailing Community Standards on health and safety; and*
- Section 2.7: audience will easily identify the Advertisement as advertising material (for example, the IBM logo is included in the Advertisement).*



The Advertisement does not come within the scope of the AANA Code for Advertising and Marketing Communications to Children or the AANA Food and Beverages Marketing and Communications Code, as the Advertisement was pitched at board members and senior executives and does not include any reference to food or beverages.

We are sorry that the complainant was offended by the Advertisement but for the reasons set out above, and with respect to any offence caused to the complainant, we submit that the Advertisement does not breach any sections of the Code (including section 2.1) and we ask that the Ad Standards Community Panel dismiss the Complaint on this basis.

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 complainant’s concern that the advertisement racially stereotypes men of African descent.

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 internet advertisement appeared on a news website and features a man a African descent next the words “Be known for you break throughs, not your break ins”.

The Panel noted the complainant’s concern that the advertisement racially stereotypes men of African descent.

The Panel noted the advertiser’s response that the model in the advertisement was chosen to represent a working professional, and there was no question as to whether the ethnicity of the model was appropriate.

The Panel noted the model in the advertisement presents a positive, non-threatening image, and agreed with the advertiser’s response that the model is dressed in a professional way and there is no indication in the advertisement that the model is someone involved in any criminal activity.



The Panel noted that many people would recognise IBM is a leading IT security provider and would associate descriptions alluding to security and data safety as relevant to IT security and not depicting house break-ins.

The Panel considered the advertisement did not portray material in a way which discriminates against or vilifies a person on the basis of race or ethnicity 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 complaint.

