



ADVERTISING
STANDARDS
BUREAU

Level 2, 97 Northbourne Avenue, Turner ACT 2612
Ph (02) 6173 1500 | Fax (02) 6262 9833
www.adstandards.com.au
ACN 084 452 666

Case Report

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| 1 | Case Number | 0196/14 |
| 2 | Advertiser | Llewellyn Motors |
| 3 | Product | Vehicle |
| 4 | Type of Advertisement / media | Radio |
| 5 | Date of Determination | 11/06/2014 |
| 6 | DETERMINATION | Upheld - Modified or Discontinued |

ISSUES RAISED

2.1 - Discrimination or Vilification Disability

DESCRIPTION OF THE ADVERTISEMENT

The Jingle is played: "We can't be beaten! and the voiceover refers to 'Llewellyn Holden/Hyundai/Toyota' won't be beaten Just like a drum...that's next to a guy with no arms.

THE COMPLAINT

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

It states "We won't be beaten like a drum next to a man with no arms." I referred this to the radio company and they believe that this is comedy? As such they do not feel it breaches the code of conduct. It is offensive, extremely poor comedy if that and totally unnecessary to the ad's intended audience and message.

THE ADVERTISER'S RESPONSE

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

We have reviewed the complaint received regarding our radio commercial aired on River 94.9 and believe the commercials are presented in a comedic frame and not discrimination or vilification of a disability.

Our Creative & Marketing Team are aware and comply with the ASB guidelines.

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 ridicules people with disabilities and is offensive.

The Board noted that the issue of taste is not covered by the Code and therefore cannot be considered by the Board in their determination.

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

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 includes a jingle which is based on a song “We can’t be beaten” by AC/DC and the voiceover refers to ‘Llewellyn Holden/Hyundai/Toyota’ won’t be beaten ‘Just like a drum...that’s next to a guy with no arms.’

The Board understood that the use of the above phrase “won’t be beaten, just like a drum...that’s next to a guy with no arms” in conjunction with the sale was intended to make a connection with the prices of the vehicles not being beaten by a competitor.

A minority of the Board considered that the reference to a man with no arms not being able to play the drums was intended to be lighthearted and humorous and although it is of poor taste, it did not amount to discrimination of a person or section of the community on account of a disability.

The Board noted that it had considered an advertisement for Sportsbet (ref: 0443/13) where a man is seen hopping around on one leg with the aid of crutches. The Board noted that in this case “that the advertisement is presenting the loss of a limb in a positive light by suggesting that losing a limb should not prevent you from doing what you want. The Board noted that the footage of the man is dated imagery and considered that whilst some people could find the advertisement to be in poor taste in the Board’s view the advertisement does not make you think less of people who have lost a limb.”

Following considerable discussion in the current matter, the majority of the Board considered that the advertisement is presenting the loss of limbs in a negative way and is suggesting that losing a limb would prevent you from doing certain things. The Board noted that the reference is not a true depiction of the capacity of a person with a disability and is not relevant to the product.

The Board noted that the use of the reference to a disabled person does not have any relevance to the promotion of a sale for vehicles and considered that overall, using a disability to make a joke, is inappropriate and does have the potential to make people think less of a person with a disability and that it did amount to discrimination.

The Board determined that the advertisement did breach Section 2.1 of the Code.

The Board then considered section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided”.

The Board noted the advertisement includes the phrase “Llewellyn’s sticking it up the competition” to indicate that they are beating their competitors in price. A minority of the Board considered that this reference was inappropriate as it is suggestive of something being stuck in someone’s rear end. The majority of the Board however, considered that the term is one that is used colloquially to mean to beat someone else or better, and that most members of the community would not consider the term strong or obscene and that it did not breach section 2.5 of the Code.

The Board noted that the advertisement also uses the phrase “Just bloody cheap cars”. The Board noted that the use of ‘bloody’ in the advertisement, is language which has been considered by the Board on many occasions and one that it has consistently determined does not breach any of the provisions of the Codes. The Board has consistently determined that use of this language, in a context that is not aggressive, threatening or demeaning, is not language that is strong or obscene and its use is not inappropriate.

Finding that the advertisement breached Section 2.1 of the Code, the Board upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

We have reviewed the case report and shared with our outsourced creative agency. Both of us did not intend for anyone to be offended, no malice was intended.

We have reviewed our internal processes to ensure we are in compliance with the Advertising Standards Bureau.

The commercial will not be used again.

