



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0216/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Parmalat Australia Ltd</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>13/06/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

- 2.1 - Discrimination or Vilification    Mental Illness
- 2.1 - Discrimination or Vilification    Occupation
- 2.1 - Discrimination or Vilification    Other

### DESCRIPTION OF THE ADVERTISEMENT

The OAK advertisement shows a man walking through an abandoned carnival, speaking to camera and therefore the viewer, about what 'hungrythirsty' is, and why they should drink OAK flavoured milk. He claims to not have a son then admits he does but that his son is in Real Estate.

### THE COMPLAINT

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

*The inane presentation and the poor mentality of the author of the ad. The reference to the character's son being dead is offensive.*

*I was offended by the TV advertisement as it has homophobic connotations; in specific where he says I don't have a son, I do but technically he is in real estate. This line is outrageous that it was allowed to be aired as it is insulting to the Gay community of Australia.*

### THE ADVERTISER'S RESPONSE

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

*Parmalat is of the strong opinion that the advertisement subject to the complaint complies with the AANA Code of Ethics, and in particular, Section 2 of the Code. Specifically:*

*1. The complaint of “the reference to the character’s son being dead is offensive” is incorrect. There is no reference or implication in the advertisement that the character’s son is dead. Instead there is a ‘tongue-in-cheek’ comment that the character does not want to associate himself with a son who “is in real estate”. This comment does not breach sections 2.1 to 2.4, nor section 2.6 of the Code. The language employed in the advertisement is appropriate in the circumstances, given the target audience is 18 to 24 year old males, of whom a large proportion are ‘blue-collar’ workers and therefore does not breach section 2.5.*

*2. The complainant also complains of the ‘inane presentation and poor mentality of the author of the ad’. A complaint about the mentality of the author of the advertisement is not a complaint about the advertisement itself. Furthermore:*

*a. there is no discriminatory language or images in the advertisement contrary to section 2.1 of the Code;*

*b. there is no violence or sexual imagery portrayed in the advertisement;*

*c. the advertisement contains no offensive (crude) language; and*

*d. the advertisement contains no language or images contrary to prevailing community standards on health and safety*

*Consequentially, Parmalat believes the advertisement complies with both the wording and the intent of the Code.*

## **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 is discriminatory towards the gay community and towards Real Estate agents.

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 the advertisement depicts a man who says he doesn’t have a son then admits he does but he is in Real Estate.

The Board noted the complainant’s concern that the advertisement is insulting to the Gay community of Australia. The Board considered that no reasonable person would find any

comments derogatory towards the gay community in the advertisement and no references at all to the gay community.

The Board noted the complainant's concern regarding the man's rejection of his son due to his profession and considered that the overall intent of the comment is intended to be humorous and in any case this is not an issue which is covered by the Code.

The Board noted that the man in the advertisement talks erratically and that it had previously considered a similar advertisement by this advertiser, 524/10, which featured the same man speaking and acting in a similar manner. The Board noted that in that instance it had "considered that most members of the community would not interpret this advertisement as featuring a man with mental health issues."

A minority of the Board considered that in this instance the man's behaviour in the advertisement is a reference to a person with a mental illness but that the portrayal is not discriminatory towards people who suffer from mental illness. The majority of the Board considered that the man's behaviour is not suggestive of a mental illness and is not discriminatory towards people who suffer from mental illness.

Based on the above the Board determined that the advertisement did not depict 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.

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