



# Case Report

1	Case Number	0241/17
2	Advertiser	Samsung Electronics Aust Pty Ltd
3	Product	Telecommunications
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	07/06/2017
6	DETERMINATION	Dismissed

## ISSUES RAISED

2.3 - Violence Cruelty to animals

## DESCRIPTION OF THE ADVERTISEMENT

The advertisement features a group of ostriches and focuses on one ostrich trying to learn to fly by using the Samsung Gear VR headset. This sequence is a metaphor for Samsung's brand philosophy of defying barriers. The background music plays Elton John, Rocket Man and at the conclusion of the Advertisement the copy on screen reads: We make the things that can't be made, so you can do what can't be done #DoWhatYouCant.

## THE COMPLAINT

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

*This to me is cruelty to animals. The Ostrich fell while running with this "gadget" on its face. The Ostrich could have broken its neck or other bones or injure itself or even died because presumably the Ostrich fell because it could not see with this "gadget" on its face covering its eyes. I do not agree with animals being used in ads which treat the animals cruelly. This add is not funny, it is cruel to the Ostrich and I find the add unacceptable because of this.*

## THE ADVERTISER'S RESPONSE

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

## *1 Background*

*Samsung Electronics Australia Pty Ltd (Samsung) would like to thank the Board for the opportunity to respond to the complaint made against Samsung's recent television advertisement in relation to the Samsung Gear VR (Advertisement). Samsung takes its responsibilities under the AANA Code of Ethics (the Code) seriously. For the reasons set out below, Samsung believes that the Advertisement does not infringe any provisions of Section 2 of the Code.*

## *2 The Advertisement*

*The Advertisement was broadcast in Australia between 2 April 2017 and 29 April 2017. The duration of the Advertisement was 30 seconds, with a 60 second version also broadcast. The advertising agency that Samsung engaged to help create the Advertisement was Leo Burnett Pty Ltd (ABN 81 001 999 257) and the media buyer was Starcom Mediavest Group (Australia) Pty Ltd (ABN 40 001 786 858).*

*We confirm that Samsung submitted the Advertisement (in both 30 second and 60 second versions) to CAD prior to its first broadcast and, on 3 March 2017 CAD issued a "G" rating for the Advertisement (CAD numbers: G4JLWCOF and G4JLXCOF). A CAD rating of G means the content is very mild in impact and does not contain any matter likely to be unsuitable for children to watch without supervision.*

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## *3 The Complaint*

*The complaint alleges that the Advertisement incites or welcomes 'cruelty to animals'. The main concern highlighted by the complainant is that the lead ostrich would have been "terrified" whilst wearing the Samsung Gear VR headset. Samsung disagrees with the complainant and strongly denies that the Advertisement breaches Section 2 of the Code in any way.*

## *4 Section 2 of the Code*

*Samsung does not consider that the Advertisement raises issues under Section 2.1 (regarding discrimination or vilification); Section 2.2 (regarding sexual appeal in an exploitative manner); Section 2.4 (regarding sex, sexuality and nudity); Section 2.5 (regarding strong or obscene language); or Section 2.6 (regarding Prevailing Community Standards on health and safety) of the Code. Samsung addresses Section 2.3 of the Code in more detail below.*

### *Section 2.3 – the presentation or portrayal of violence*

*Section 2.3 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.*

*Samsung does not consider that any part of the Advertisement portrays violence towards animals or animal cruelty. Whilst live ostriches were involved in the making of the*

*Advertisement, the sequences involving the live animals were strictly limited to:*

- i) an ostrich in a sunrise frame shot moving its head down and up;*
- ii) a flock of ostriches standing static whilst a wind machine blew tumble weeds past them; and*
- iii) a variety of background shots and tracking vehicle shots from different angles which involved the birds moving away from and towards the camera.*

*The images which form the subject of the complaint (i.e. the ostrich wearing the Samsung Gear VR and later learning to fly) are computer generated images only.*

*Furthermore, during the making of the Advertisement the live ostriches were handled on set by their owner and animal trainer and strict measures were taken to ensure their safety and comfort. An ostrich safety fence was in place around the perimeter of the set and the birds had close contact at all times with six animal handlers. The ostriches were also provided with easy shade and were alternated across the filming of the Advertisement depending upon their interest to perform.*

*The involvement of the live animals in the Advertisement was encouraged via food or directional filming back towards the flock pens and all animal action took place under the close management and supervision of an Animal Welfare Inspector who, satisfied with the humane treatment and transport of the animals, issued an Animal Issues Matter Organisation Animal Welfare Compliance Certificate under the Animals Protection Act of South Africa No 71 of 1962 and the Performing Animals Protection Act No 24 of 1935.*

## *5 Conclusion*

*In Samsung's view, there is nothing in the Advertisement that amounts to animal cruelty or violence towards animals and no animals were abused or mistreated during the filming of this Advertisement. Accordingly, Samsung submits that the Advertisement is not in breach of Section 2 of the Code in any respect and the complaint should be dismissed.*

## **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 complainant's concerns that the advertisement depicts an ostrich with a gadget attached to its face which is claimed to be cruel and unacceptable.

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

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 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 this television advertisement depicts an ostrich finding then wearing a virtual reality headset which shows it what flying would look like, then at the end of the advertisement we see the ostrich flying.

The Board noted the advertiser's response that while live ostriches were used for some of the scenes in the advertisement, the scenes showing the ostrich wearing the headset and flying were computer generated. The Board noted the advertiser had confirmed that an Animal Welfare Inspector was present during filming and the ostriches were treated appropriately.

The Board noted the scene where an ostrich finds then wears a virtual reality headset and considered that most reasonable members of the community would recognise that these scenes are computer generated. The Board noted the scene where the ostrich flies and considered that as ostriches are flightless birds this scenario is clearly fantastical and intended to highlight the advertisement's message about "doing what can't be done".

The Board acknowledged that cruelty to animals is unacceptable but considered that in the context of an advertisement demonstrating and doing what can't be done, the depiction of a computer generated ostrich wearing a virtual reality headset is not a depiction of animal cruelty and in the Board's view the advertisement does not encourage or condone placing a headset on an ostrich or any other animal.

The Board considered that the advertisement did not depict cruelty to animals and determined that the advertisement did breach Section 2.3 of the Code.

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