



Case Report

1	Case Number	0249/16
2	Advertiser	realestate.com.au
3	Product	Real Estate
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	08/06/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Race
- 2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows two couples celebrating the successful purchase of house by one couple. The other couple explains that their property has not sold despite having been on the property market for three months. When the couple who have sold their house asks the other couple whether their house is listed on realestate.com.au, an awkward, comedic silence ensues – the implication is that the obvious and best way to sell a property is to list it on realestate.com.au. The awkward silence is broken by the couple who have sold their house changing the subject and declaring, “We’re getting a shih-tzu”.

THE COMPLAINT

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

The successful couple were two Caucasians and the failure couple featured an Asian man. The punchline was the successful couple saying "we're getting a shih tzu" (a pun on "shit"). I found the ad offensive in that it portrays people and things Asian negatively and as a laughing stock (as opposed to non-Asian). Although I can appreciate it reflecting sentiments in the real estate market about Asian buyers, I found the ad to be unacceptable on the grounds of racism.

THE ADVERTISER'S RESPONSE

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

We provide this letter of response in relation to the notice of complaint received by realestate.com.au Pty Ltd (REA) from the Advertising Standards Bureau (ref. 0949/16).

Description of the advertisement and campaign

The television commercial (TVC) entitled ‘Selling? Get in the market with realestate.com.au’ is currently being aired on free to air commercial television.

The TVC shows two couples celebrating the successful purchase of house by one couple (Seller Couple). The other couple (On-Market Couple) explains that their property has not sold despite having been on the property market for three months.

When the Seller Couple asks the On-Market Couple whether their house is listed on realestate.com.au, an awkward, comedic silence ensues – the implication is that the obvious and best way to sell a property is to list it on realestate.com.au. The awkward silence is broken by the Seller Couple changing the subject and declaring, “We’re getting a shih-tzu”.

The TVC is part of a campaign of three television commercials (Campaign). All advertisements in the Campaign depict people whose property needs are not being met because they are not using realestate.com.au.

Requested materials

The CAD reference number for the TVC is G32OCREA and the CAD rating is G. The TVC is available for view at <https://youtu.be/tssGteh6blM>.

Other advertisements in the series can be viewed at https://youtu.be/wCZ1YpVMf_c and <https://youtu.be/NKswuiSOWPY>.

REA’s Submission

1. Discrimination or vilification of race

The Complaint alleges that the TVC “portrays people and things Asian negatively and as a laughing stock (as opposed to non-Asian)”; “reflect[s] sentiments in the real estate market about Asian buyers”; and is “unacceptable on the grounds of racism”.

REA denies those allegations on the following grounds:

- Both characters in the On-Market Couple are portrayed identically – there is no unique or derogatory treatment in the portrayal of the actor who has Asian heritage.*
- The character with Asian heritage has an Australian accent and is a prospective seller, so he is not an “Asian buyer”.*
- The reference to the shih-tzu (a breed of dog originating in Asia) is made by a character*

trying to change the subject from the On-Market Couple's selling experience – it is explicitly disconnected from the narrative about the selling experience.

• Throughout the Campaign, all other characters depicted as not having their needs met are Caucasian.

Noting the broad range of ethnicities of REA's audience on realestate.com.au, REA sought to incorporate cultural diversity into the TVC by directing the creative agency to include non-Caucasian actors in the talent shortlist. REA selected the non-Caucasian actor. Importantly, REA did not direct the creative agency to cast the non-Caucasian in any particular role.

REA has received positive feedback on social media for its inclusion of the relevant actor (see attached).

REA denies that the TVC breaches section 2.1 of the Code.

2. Inappropriate language

The Complaint alleges that the reference to "shih-tzu" is a "pun on shit". REA denies this on the basis that:

1. The "shih tzu" reference is entirely disconnected from the narrative theme of the TVC – the reference is a comedic counterpoint seeking to change the subject.

2. There is no special emphasis or creative treatment given to the words "shih tzu" that suggests or intimates a "pun on shit".

3. "Shih tzu" is not a profanity – it is a dog breed officially recognised by the Fédération Cynologique Internationale, an internationally recognised body for dog breed classification.

At filming, several alternative "ice breaker" lines were recorded, i.e. "our internet is fast", "let's play twister", etc. The line used in the final version was selected because it was deemed to be the best-delivered line with the most positive overall comedic impact.

REA denies that the TVC breaches section 2.5 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 complainant's concerns that the advertisement is racist and portrays Asian people, Asian buyers and all things Asian, negatively.

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 portrays two couples over dinner, celebrating one couple’s success in selling their home.

The Board noted the advertiser’s response that there is no unique or derogatory treatment in the portrayal of the actor who has Asian heritage and the character with Asian heritage has an Australian accent. The Board considered that the couples portrayed reflected modern Australia. The Board considered that, despite the interpretation taken by the complainant, there is nothing in the advertisement to indicate a negative depiction of any of the actors on the basis of their race. The Board considered that the Asian appearance of the unlucky seller is not of any focus or mention and in the Board’s view there is no inference of any negative attributes stated by the man’s race. In relation to the complainant’s concern that the negative portrayal extended to the reference to a Shih-Tzu dog, the Board considered that this was introduced as a topic to change the subject.

The Board considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender.

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 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.”

The Board noted the reference to a Shih-Tzu dog, and the complainant’s concern that this was ‘a pun on shit’. The Board did not consider that the reference was anything other than a reference to a popular dog.

The Board determined that the advertisement did not breach Section 2.5 of the Code. Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.