



Case Report

1	Case Number	0259/11
2	Advertiser	Volkswagen Group Australia Pty Limited
3	Product	Vehicles
4	Type of Advertisement / media	Internet
5	Date of Determination	27/07/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Disability

DESCRIPTION OF THE ADVERTISEMENT

Three informercial style advertisements for Volkswagen. Each advertisement features an invented environmental product which is shown in a comical light: a shopping shirt which has a sewn-in pocket for carrying groceries hands-free, a magnifryer which allows you to use the sun's rays to cook food, and the yumbrella which allows you to catch and drink rain water. Each product is then compared to the environmental aspects of the new Volkswagen with the tagline of "Why be environ-mental when you can be environ-normal?"

THE COMPLAINT

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

"Why be environMENTAL when you can be enviroNORMAL?". Is this a joke??? What kind of a sick offensive tag line is this to use to sell cars?! Mental health is a serious issue and as a soon-to-be doctor I take great offence at the suggestion that mentally ill people are not normal. With the number of suicides attributed to mental health issues I am horrified that Volkswagen have somehow gotten away with airing this promotional campaign.

Please take it off the air!

The catchphrase used by ad ('Why be environ-mental when you can be environ-normal?') perpetuates a historic stigma which has been associated with mental illness and mental disability. The context in which the word 'mental' is used is insulting and portrays mental illness and mental disabilities as abnormal and undesirable. The ad is offensive to persons

with a mental illness and I believe constitutes discrimination against persons with a disability in breach of section 2.1 of the AANA Code of Ethics.

The catchphrase employed and use of the term 'mental' in this context to describe outrageous behaviour which is the subject of ridicule in the ad is insensitive to those with a mental illness. The ad appears to condone ridicule of 'mental' people or behaviours contrary to Prevailing Community Standards. The language used is not appropriate in the circumstances and an alternative phrase could be used to achieve the same objective without referring to 'mental' behaviour.

THE ADVERTISER'S RESPONSE

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

It is noted first and foremost that the advertisement complained of was not aired on TV as suggested in the details of the complaint (see page 4 of your letter dated 6 July 2011). Our Golf BlueMotion campaign has not included television. We did however create three (3) infomercials available on our website at www.volkswagen.com.au and on the internet generally, and the complaint relates to one of these three infomercials. As we cannot be sure which of the three infomercials has given rise to the complaint, we enclose links to each of the three infomercials for your consideration (the Infomercials).

Firstly, it should be known that Volkswagen Group Australia Pty Ltd ("Volkswagen") takes its responsibility as an advertiser very seriously and makes extensive efforts to understand and respond appropriately to community concerns and issues, including by having in place our own stringent internal review and approval process, including legal advice.

Volkswagen does not in any way encourage discrimination or vilification of any kind. We are conscious at all times of ensuring that our work and advertising practices afford respect to all cross sections of the community, on account of variables including race, sex, sexual preference, religion and disability. Accordingly, we respectfully disagree with the complainant's characterisation of the Infomercials as discriminating against, and/or vilifying, people with mental disabilities or illnesses.

We have considered the complaint and the Infomercials in question in light of the provisions of the AANA Code of Ethics ("the AANA Code").

We have carefully considered the AANA Code and assessed its provisions against the content of the Infomercials. We submit that the Infomercials do not breach the AANA Code on any of the grounds set out in the same.

The Infomercials

We note the complainant's concerns that the Infomercials discriminate against, or vilify, persons with mental disabilities or illnesses, however having reference to the provisions of the AANA Code we respectfully disagree that the Infomercials are in breach of the AANA Code in any way.

The Infomercials concern the recent release in Australia of the Golf BlueMotion.

"BlueMotion" is a cutting edge technology founded by Volkswagen AG. "BlueMotion" models are focused on the environment and "BlueMotion" is the label that Volkswagen gives to the most fuel efficient Volkswagen model variant within a model range (in this case, the Golf).

BlueMotion models are engineered with intelligent engine management systems and feature technologies including a Start-Stop System, a brake energy recovery system, improved aerodynamics as well as low rolling resistance tyres. These technologies have resulted in an environmentally friendly vehicle, with an emphasis on low fuel consumption and low carbon emissions.

Importantly, the environmental results of BlueMotion have been achieved without changing the fundamental nature of the Golf vehicle, and without compromising the vehicle's practicality.

Indeed, the Infomercials seek to emphasise that notwithstanding this new cutting edge "BlueMotion" technology, the Golf BlueMotion is an environmentally friendly product which remains practical and true to its conventional form and nature. The Infomercials further seek to highlight that in this day and age where manufacturers strive to be "environmental" by often inventing products devoid of practicality, the Golf BlueMotion vehicle is both environmentally friendly and practical.

We highlight the following features of the Infomercials in support of this position:

1. The Infomercials each depict a fictitious product. The following fictitious products are depicted in the Infomercials:

(a) The Shopping Shirt: a fictitious, environmentally friendly shirt with pockets that may be used for the carriage of groceries and caters for "hands free" shopping.

The Infomercial shows the Shopping Shirt in a humorous fashion to illustrate it as an example of a product which completely compromises its practicality and normality in its sole focus to be "environmental" (i.e. by reducing the use of plastic bags). This impracticality is further reinforced by the complimentary fictitious "shopping hat" that is also shown depicted in the Infomercial, which may be used to store eggs, keys, and pineapples.

(b) The Magnifryer: a fictitious, environmentally friendly frying pan that magnifies the sun's rays to cook a meal to perfection.

This Infomercial shows the Magnifryer in a humorous fashion to illustrate it as an example of a product which completely compromises its practicality and normality in its sole focus to be "environmental" (i.e. by reducing the use of electricity).

(c) The Yumbrella: a fictitious product, environmentally friendly inverted umbrella which allows "consumers" to purify and at once drink rain water. The "Yumbrella" has a purifying and drinking device attached to it, which even caters for flavoring the water with "Rose" essence.

Again, this Infomercial shows the Yumbrella in a humorous fashion to illustrate it as an example of a product which completely compromises its practicality and normality in its sole focus to be "environmental" (i.e. by reducing the use of bottled water).

2. In each of the Infomercials therefore, far fetched, fictitious inventions are effectively being juxtaposed (through the use of hyperbole) with the Golf BlueMotion to bring home to the consumer the practicality of the BlueMotion technology in comparison to other not so practical and conventional products. In comparison to the depicted fictitious and far fetched impractical inventions, the Golf BlueMotion is a real product, it is practical, friendly on the environment and at the same time remains true to the Golf model's fundamental form and nature.

3. The tagline "Why be environ-mental when you can be environ-normal?" (appearing in all 3 Infomercials) is a play on words and is merely intended to convey that despite the obsession of many manufacturers in recent times to be "environmental" (at the expense of practicality), the Golf BlueMotion is an environmentally friendly vehicle with a new cutting edge technology, but remains practical, conventional, and has not compromised the fundamental form and nature of the Golf model. This is supported by the statement in all the

Infomercials that the Golf BlueMotion is both “easier on the environment and fun to drive”, a statement which appears immediately after the said tagline.

4. The focus of each of the Infomercials is solely on the Golf BlueMotion, the fictitious products and their respective environmental impacts. There is no depiction in the Infomercials of any persons or other imagery which in any way suggests that any cross section of the community is being discriminated against or in any way vilified. This further supports the fact that it was never our intention to in any way discriminate against any person suffering from a mental disability or illness.

We also note that the Board has in the past considered issues related to the potential discrimination and or vilification of people suffering from mental/intellectual disabilities in its decision in Case No. 0145/10. That complaint regarded a man saying “I know this sounds crazy but have you ever seen talking animals” when he took a goat and frog to the vet. The vet thought the man needed a psychiatric clinic, not a vet, and so handed him a business card with contact details for a psychiatrist. The Board took the view in that case that the advertisement was humorous and unrealistic and did not intend to make light of people suffering from such disabilities.

Therefore, we are of the view that similar considerations should apply here.

For the above reasons we submit that the Infomercials are not in breach of the AANA 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 offensive to people with mental health issues.

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

The Board first 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, sex, age, sexual preference, religion, disability or political belief.'

The Board noted that there are three online advertisements for Volkswagen, each with the tagline of ‘Why be environ-mental when you can be environ-normal?’

The Board noted the advertiser’s response that the advertisements depict far-fetched fictitious inventions in a humorous manner to highlight the environmental aspects of the new Volkswagen Golf. The Board considered that the advertisements were all over the top and featured unrealistic inventions. The Board noted that the reference to environmental versus environnormal could be distasteful to some members of the community, however in the Board’s view the advertisements are clearly intended to be humorous, do not depict people with a mental illness and do not demean any sections of society.

The Board considered that the focus of the advertisement is the environmental aspects of the vehicle and that the advertisement makes no reference to the mental health of people. The Board considered that the advertisement is not offensive to people with mental health issues and does not discriminate against people with disabilities.

Based on the above the Board determined that, in this instance, the advertisement did not depict any 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.