



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0263-20
2. Advertiser :	Brand Developers
3. Product :	Sport and Leisure
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	9-Sep-2020
6. DETERMINATION :	Upheld - Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.3 Violence

DESCRIPTION OF ADVERTISEMENT

This television advertisement is two minutes long and promotes a product called "Fish Seeker". The advertisement depicts various scenes of people using the product, and various scenes of fish.

THE COMPLAINT

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

I strongly object to watching the fish in the ad suffocating on the beach once the contraption has caught it. There are codes of conduct regarding leisure fishing and the humane quick disposal of said fish immediately it is caught. The ad is filled with many shots of fish flapping about in a persons hand or on the sand desperately trying to breath which of course it can't. I was horrified and upset that an ad can blatantly ignore humane methods of killing, showing obvious animal suffering and then promoting it by default on national television.

During the course of the ad, a fish is shown suffocating on the beach, in clear distress. This is shown several times and is very upsetting. The makers of the ad clearly caught a fish and let it die slowly and painfully so they could film it. I was deeply disgusted by this lack of concern for life, and total lack of respect for the pain and distress of the fish.



I enjoy fishing and do so often, however that is animal abuse and not a pleasant to see a fish gulping out of water, I have no issue with the product and have used one myself but that was horrible to see a fish placed alive on the sand for a period of time

Use of fish for visuals in ad clearly displays them hooked, injured, beached, etc. Degree of suffering seems unnecessary. Multiple hook lines illegal in some Australian states under animal welfare act. No awareness in ad that lines set by device can be set and left remotely, causing a potential hazard.

THE ADVERTISER'S RESPONSE

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

We are sending with this response a copy of the advertisement for FISH SEEKER mini kontiki.

In your review of the advertisement we ask you to consider the following points:

1. In advertising the product, the advertiser needed to show that the fish caught by the FISH SEEKER mini kontiki, were live fish and that they were not fish caught by some other method and substituted off camera.

Therefore, the advertiser had the choice:

- a. show the live fish flapping around on the beach immediately it was out of the water;*
- b. show the fish being killed – to both show it was live when caught and was being humanely put to death: or*
- c. show a dead fish on the beach after being humanely killed, however caught live.*

The advertiser elected (a).

In support of the advertisement, the shots of the fish caught by the FISH SEEKER mini kontiki referred to by the complainants are each of about one second duration on the screen.

In shooting the advertisement the fish was landed, the photo on the beach was taken and then the commonly accepted method of spiking the brain was used immediately afterwards, to humanely kill the fish.

In view of the above we submit that the advertiser is an ethical advertiser and fulfils the requirements of each of the codes 2.1, 2.2, 2.3, 2.4, 2.5, 2.6. We regret that the complainants have been impacted adversely by our advertisement.

We submit that the advertisement should continue to be aired without modification.

Additional response:



1. *“Use of fish for visuals in ad clearly displays them hooked, injured, beached, etc. Degree of suffering seems unnecessary.”*

The issue of “degree of suffering seems unnecessary” was dealt with in our previous response. However, we make the general comment, that the advertisement is for a fishing kontiki which catches fish, therefore at some point in time the fish needs to be hooked and beached if the product is going to perform the task for which it was designed. Showing this in an advertisement is code compliant.

2. *“Multiple hook lines illegal in some australian [sic] states under animal welfare act.”*

The Advertiser is aware that the fishing regulations differ from state to state in Australia, because of this the onscreen disclaimer at 00:20 -00:27 “Consult your local fishing rules and regulations” was added to the advertisement.

3. *“No awareness in ad that lines set by device can be set and left remotely, causing a potential hazard.”*

It is not very clear what is being complained about here. That said, the advertisement doesn’t ever say that the device should be unsupervised in use, and in fact the line “simply wait 20 minutes or so before you haul in the line” implies quite the contrary, ie that the device be left out only about 20 minutes and that it should be supervised from the shore.

In addition, the complainant needs to understand that the mainline sinks when the unit is stopped so poses no threat to boat traffic and the Fish Seeker body itself is bright yellow for maximum visibility. Any hazard is minimal.

The product is sold with an owner’s manual and information for safe use of the Fish Seeker is included in the manual along with encouragement to find out about the specific fishing regulations for the area you are fishing in.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants’ concern that the advertisement:

- Portrays practices which are against the humane quick disposal of fish
- Depicts obvious animal suffering and distress
- Is upsetting to viewers
- Shows a lack of concern for the pain the fish is in
- Shows a degree of suffering which is unnecessary

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



The Panel considered whether the advertisements were 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 Panel noted that the advertisement featured a number of scenes of fish out of water where the fish were clearly still alive, including:

- 00:03 A man holding up a moving fish which he then drops
- 00:09 A woman on the beach holding up a fish still attached to a fishing line
- 00:12 A man holding up a fishing line with a moving fish attached to it
- 00:25 A man squatting down in the water holding a moving fish above the water
- 00:49 A fish attached to a fishing line on the sand next to the product
- 01:06 The product is pulled out of the water with a fishing line and fish attached
- 01:14 A fish lying on the sand next to the product
- 01:46 A man holds up a fish which is still moving
- 01:47 A fish is shown just out of the water, lying next to the product

The Panel noted the Practice Note for Section 2.3 of the Code states that violence against animals falls within this Section of the Code.

The Panel noted the advertiser's response that the scenes showing the live fish out of the water were each for about one second duration, and state that after the vision was taken the fish were humanely killed, though this was not shown. The Panel further noted the advertiser response that the product being sold is a product for catching fish, so depicting the fish being caught and pulled to shore cannot be said to be unnecessary.

A number of Panel members considered that the methods shown in the advertisement were consistent with how people fishing treat fish, and that the fleeting images of fish out of water did not constitute a level of violence which the majority of community members would consider to be unjustifiable in the context of the fishing product being advertised.

However, the majority of the Panel noted increasing community sensitivity towards the treatment of animals in game sports, such as hunting and fishing, and considered that there is a consensus in the community that an animal's pain and suffering should be minimised as far as possible in such activities. The majority of the Panel noted that the advertisement does not show that the fish were killed quickly and humanely, and considered that the overall impression of the advertisement is that the fish were suffering and in pain attached to fishing lines and on the beach.

The Panel noted that the RSPCA guidelines for fishing state that "all fish that are caught for eating must be handled carefully to reduce stress and humanely killed as soon as possible after capture" (<https://kb.rspca.org.au/knowledge-base/what-is-the-most-humane-way-to-kill-a-fish-intended-for-eating/>). The majority of the Panel



considered that these guidelines reflect community standards for the treatment of fish.

The majority of the Panel considered that the depiction of the fish suffering was not necessary to the portrayal of the product and how it works.

The Panel considered that the numerous scenes which depicted fish out of water, gasping for breath with no apparent action being taken to humanely kill them, was a depiction of violence which was not justifiable in the context of a fishing product.

The Panel therefore determined that the advertisement did portray violence that was not justified in the context of the product or service advertised and did breach Section 2.3 of the Code.

Finding that this advertisement breached Section 2.3 of the Code the Panel upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

In response to the notification that you have upheld complaint No. 0263-20, Brand Developers will be modifying the advertisement by the removal of some visual shots from the advertisement.

The visual shots we propose to remove are at:

00:03

00:25

00:49

01:14

01:46

01:47

It is our view that any visual shots which may have been viewed as portraying violence not justified in the context of the product advertised (which is a fishing product) fall into this list above.

The visual shots that remain show fish being caught during the use of the product which should be regarded as entirely justifiable under code 2.3, and, we believe all fall within the SPCA's guidelines for fishing practice and portray humane fish handling practices.

We also propose the addition of the following super on the screen:
"All local fishing regulations were adhered to while filming"

These adverts have all now been replaced with the amended version.