

Case Report

1	Case Number	0275/11
2	Advertiser	ACTTAB Ltd
3	Product	Gaming
4	Type of Advertisement / media	TV
5	Date of Determination	27/07/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Race

DESCRIPTION OF THE ADVERTISEMENT

A re-enactment of ten jockeys lining up for a horse race under starters orders. Three of the jockeys in the race are wearing sheik's robes, although it is clear they are not in fact sheiks. The voiceover, as the race starts, suggests that pre-Flexibet, you almost had to "own an oil well" to make a combination bet with ACTTAB, while the jockeys dressed as sheiks jump to the front of the race almost immediately followed by the Flexibet logo and ACTTAB logo and slogan.

THE COMPLAINT

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

Many of my Arabic friends and students have seen the advertisement as gratuitous attempt to ridicule their culture. As a Muslim Australian I find the advertisement offensive as it connects my religion with gambling (which is not regarded as appropriate) it offends my wife who is Arabic and it is completely unnecessary in the context of the advertisement. The advertisement ridicules a particular cultural minority with blatant disregard for religious sensitivity and it provides a racial stereotype which in attempting to be humorous presents sheiks as an item for racial ridicule. I am deeply offended by the advertisement and its blatant racism. Given that the advertiser is a government-owned entity it makes the insult more difficult to bear.

THE ADVERTISER'S RESPONSE

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

The complainant believes that the Advertisement breaches section 2 of the Advertiser Code of Ethics (the Code). We confirm in this respect that the Advertisement does not come within the scope for children's or food and beverage products therefore no other Codes are relevant to this submission.

1. Objects of Code

We note that the relevant objects of the Code are to ensure that advertisements are legal, decent, honest and truthful and have been prepared with a sense of obligation to the consumer and society.

2. Section 2.1 of the Code

We note that the ASB will consider complaints under this section where they involve the portrayal of people. The relevant part of section 2 of the Code is section 2.1 which provides that:

Advertising or Marketing Communications shall not portray people 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

3. The complaint

The complainant states that the Advertisement, by depicting jockeys dressed in traditional Arabic religious dress riding horses in a horse race for betting purposes with the remark: "to get a fair shake (a pun on sheik) you don't need to be one":

- (a) is a gratuitous attempt to ridicule Arabic culture which is a cultural minority;*
- (b) connects his Muslim religion with gambling which is not regarded as appropriate;*
- (c) offends his Arabic wife;*
- (d) completely unnecessary in the context of the Advertisement;*
- (e) blatantly disregards religious sensitivity of Muslims; and*
- (f) provides a racial stereotype by presenting sheiks as an item for racial ridicule as a result of an attempt at humour.*

4. Overview of response

4.1 ACTTAB takes complaints of this nature very seriously and does not seek to discriminate against people or offend the members of the public in any of its advertising. ACTTAB is committed to ensuring that its advertising is legal, decent, honest and truthful and that it is prepared with a sense of obligation to the consumer and the community at large.

4.2 ACTTAB has carefully considered the application of the 2.1 of the Code to the content of the Advertisement and previous relevant decisions of the Board in light of the complaint.

4.3 ACTTAB believes that the Advertisement does not breach the Code on any of the grounds complained of for the reasons set out below.

4.4 The Advertisement is quite brief, only twenty seconds long showing thoroughbred horses lining up behind the barrier before a race. Three of the jockeys are dressed as sheiks in flowing robes. It is clear that the jockeys are not in fact sheiks at all. The horses jump and the sheiks jump to the front almost straight away to the voice over which says: "Once, it seemed like you almost had to own an oil well to make a combination bet but ACTTAB's new Flexi Bet gives you a fair shake without having to be one New Flexibet. Bet ACTTAB. Back Canberra"

5. No reference to religion

The script and vision of the Advertisement contain no overt or implied reference to any religion or members of a particular religion.

6. Application of appropriate test

6.1 Based on previous relevant decisions of the Board, the appropriate test in relation to such cases is to consider whether an ordinary reasonable viewer drawing on their own knowledge and experience would have understood the Advertisement as discriminating against or vilifying people of Arab descent.

6.2 ACTTAB does not consider that it is probable that the advertisement would cause an ordinary viewer to regard Arab people with strong or passionate dislike or make a distinction against them on the basis of their ethnic origin or cause an ordinary viewer to speak evil of or defame Arab people.

6.3 The Advertisement contains no material that discriminates against or vilifies any person or section of the community on account of their race, nationality, ethnicity or religion. In ACTTAB's view, the depiction of the jockeys dressed up as sheiks riding horses is clearly a light-hearted, tongue-in-cheek and humorous campaign made for the purposes of comedy.

6.4 The clear message to viewers of the Advertisement is to humorously highlight that a person doesn't need to be rich to place a Flexibet with ACTTAB. This is expressed in the script as follows: "Once it seemed like you almost had to own an Oil Well to make a combination bet".

6.5 The use of the pun on the word sheik has not been done in a religious context or by reference to one particular race, ethnic group or nationality and is not offensive. The Advertisement does not convey a negative reflection on the Arabic culture, or the Muslim religion, or on any group of Sheiks and viewers would not understand this to be the case.

6.6 None of the characters in the Advertisement appear violent, threatening or aggressive towards one another. They look like they are having fun racing. Whilst some people may be offended by such a depiction, the advertisement does not discriminate against or vilify Arab people.

7. Relevant factual matters

It is submitted that the Board should also have regard to the following factual matters regarding the depiction of sheiks and the use of the term sheik in the context of the Advertisement:

7.1 Without attempting to provide any detailed analysis of the term 'sheik' for the purposes of responding to the complaint, it is relevant to note that:

- (a) the historical and cultural roots and use of the term is long and varied;*
- (b) historically the term was used to generally refer to men who are, amongst other things, scholars, businessmen, elders or leaders;*
- (c) sheiks are synonymous with wealth and status as much or if not more than with religion;*
- (d) it is not a term that is used exclusively for member of the Muslim faith; and*
- (e) not all sheiks are Muslims.*

7.2 Not all Arabs are Islamic. There are many Christian sheiks, especially in places such as Lebanon.

7.3 Sheiks are commonly known to be associated with horse racing. There are numerous and prominent Sheiks who own and race thoroughbred horses throughout the world, for example, Sheikh Hamdan of Dubai is the owner of two recent Melbourne Cup Winners and the Dubai World Cup is an annual thoroughbred horse race and the world's richest horse race. Many of the past winners of the race have been owned and trained in the United Arab Emirates.

7.4 Arabian horse racing is also a well respected part of Australian racing. Some racecourses hold special Arabian Horse races, accompanied by a celebration of Arab culture.

8. Approval by FREE TV

Both the script and the completed Advertisement, were progressively submitted in advance of airing for approval by FREE TV Australia. Approval was granted on both occasions.

9. Regard for previous decisions

It is submitted that, when assessing this complaint, the Board should have regard to previous decisions it has made relevant to breach of section 2.1 complaints in relation to discrimination or vilification based on race, ethnicity, nationality or religion, and similar depictions of foreign cultures and religions as light-hearted and humorous. The Advertisement contains similar content and is of a similar light-hearted and humorous tone as advertisements which the Board has did not breach section 2.1 of the Code.

10. Connection of Muslims to gambling

10.1 Whilst it is noted that the Qu'ran prohibits gambling, and gambling is illegal in Dubai, and most Muslim countries, the Advertisement does not connect the complainant's Muslim religion with gambling.

10.2 The script is not suggesting that those sheiks who are Muslim bet on horses contrary to their religion, but that sheiks are wealthy and if punters want to bet on horse racing they can do so with ACTTAB's Flexibet product without having to be as wealthy as a sheik who owns and races horses.

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 promotes a racial stereotype and ridicules Arabic culture.

The Board considered whether the advertisement was in breach of Section 2.1 of the Code. Section 2.1 of the Code states: “Advertising or Marketing Communications shall not portray people 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 the advertisement features a horse race and that two of the jockeys are Arabs, and the voice over states, “to get a fair sheik you don’t need to be one.”

The Board noted that the link between Arabs and horseracing could be considered a stereotype but that in the context of this advertisement it is a stereotype that is presented as an advantage and not in a negative manner. The Board noted the advertiser’s response that “there are many Christian sheiks, especially in places such as Lebanon” however the Board considered that in this instance the sheik is presented as if he were from Saudi or the Emirates, and noted that sheiks from Saudi or the Emirates are Muslims. The Board noted the word play through the use of the word ‘sheik’ and considered that this word was used in a humorous context which was relevant to the theme and message of the advertisement.

The Board considered that the advertisement highlights the high proportion of Arabs who own both horses and oil wells and that it does this in a positive manner which does not denigrate the Arabian culture or people. The Board considered that the advertisement does not present the Arabian culture in a manner which ridicules them.

The Board determined that the material depicted did not discriminate against or vilify any person or section of the community on account of religion and did not breach Section 2.1 of the Code.

Further finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaint.