



Case Report

1	Case Number	0276/17
2	Advertiser	Sportsbet
3	Product	Gaming
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	21/06/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.1 - Discrimination or Vilification Nationality
- 2.1 - Discrimination or Vilification Race
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

A swimmer is standing beside a swimming pool being interviewed. They're slightly androgynous. They are introduced as Mee Chi Ting, women's Butterfly Champion. Mee is holding an Android phone towards camera displaying the new Sportsbet Android app. In the background we see another swimmer doing a lap. They're travelling super-fast like a speedboat, leaving a wake behind them. Mee talks about the app in Chinese and a male voiceover translates to say, "Right, she's saying it's unfairly fast! And something about Sportsbet putting the 'roid in Android!"

THE COMPLAINT

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

It was making fun of the nationalities. I am Chinese Tussian and found it upsetting. I am surprised this was cleared to go on TV.

The depiction of the Chinese swimmer was racist and offensive. The swimmer's character was acted in the historically racist buck-toothed Asian trope. Her name was "Mee Chee Ting" (i.e. me cheating). The ad made a further comment about Asians doping and being on steroids. In

2017 this is not an acceptable portrayal of Asians. It plays on derogatory gold rush era stereotypes used to undermine the status of Asians in society. These views are ultimately destructive to society and should not be given a national platform. Please ban this ad.

Referencing steroid use being synonymous with Asian/Chinese swimmers.

THE ADVERTISER'S RESPONSE

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

We refer to your letters and the Complaints mentioned above regarding Sportsbet's Android App swimmer advertisement (Advertisement).

The Complaints

The Complaints state:

*'Referencing steroid use being synonymous with Asian / Chinese swimmers'
'This is offensive to people of Chinese heritage... Offensive to women.'
'The depiction of the Chinese swimmer was racist and offensive...The ad made a further comment about Asiabs [sic] doping and being on steroids (I missed this part but it is in the final sentence of the ad's dialogue).'*

The ASB has identified section 2.1 of the AANA Code of Ethics (Code) as the section which may have been breached based on the Complaints:

2.1: 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, gender, age, sexual preference, religion, disability, mental illness or political belief.

The ASB has also identified section 2.6 of the Code – however, the applicable complaint refers to Sportsbet's Ben Johnson advertisement and not to the Advertisement and is therefore misplaced and irrelevant in assessing the Advertisement.

Sportsbet's response to the Complaints

Sportsbet rejects that the Advertisement in any way breaches section 2.1 of the Code. In our view, the Advertisement plainly does not "discriminate against" nor "vilify" any person or section of the community on account of nationality, gender or race.

The Oxford and Collins dictionaries support our contention that the Advertisement does not breach section 2.1 of the Code by reason that they provide:

to "discriminate against" is to "make an unjust or prejudicial distinction in the treatment of different categories of people" (Oxford Dictionary) or to "single out a particular person, group, etc., for special...disfavour, often because of a characteristic..." (Collins Dictionary); and

to “vilify” is to “speak or write about in an abusively disparaging manner” (Oxford Dictionary) or to “revile with abusive or defamatory language; malign” (Collins Dictionary).

Although some viewers may not find the Advertisement as humorous as some others might (or at all), it certainly does not go so far as to ‘unjustly or prejudicially’ treat any nationality or race, nor does the Advertisement ‘abusively disparage’ or ‘revile’ any nationality or race. Sportsbet also strongly rejects that the Advertisement is in any way racist.

While the proponent in the Advertisement is Asian and is speaking Mandarin, Asian people or, more specifically, Chinese people, are not singled out in the Advertisement in any way that demonstrates or encourages discrimination or vilification.

Instead, the Advertisement features a fictitious character as an example of a ‘super human swimmer’ suspected to have used steroids to gain an unfair advantage, together with a play on the word ‘roid’, to promote Sportsbet’s new Android App as something that is also ‘performance enhanced’ and something that Sportsbet’s Android customers should download.

The Advertisement is clearly and obviously a spoof and parody. It is in no way intended to be – nor could a viewer reasonably consider it to be – a portrayal of a realistic situation. This is demonstrated in a number of ways, including through use of an overtly fictitious name and including clear statements of ‘Paid actor’ and ‘Probably endorses’ in the context of purporting that the Android App is be endorsed by ‘super human swimmers’.

Portraying someone with a muscular physique with reference to ‘super human swimmer’ in this tone is a long way removed from ‘unjustly or prejudicially’ treating any race or nationality, or ‘abusively disparaging’ or ‘reviling’ any race or nationality.

There is also no reasonable basis for any allegation of discrimination or vilification on account of gender. The Advertisement does not in any way focus on any female characteristics, traits or stereotypes or unfavorably compare a female against a male, let alone in a discriminatory or vilifying way.

Sportsbet regrets if the jovial nature of the Advertisement was either misconstrued or may have offended the complainants, but we firmly reiterate our view that the Advertisement does not breach the Code.

Conclusion

In Sportsbet’s submission the Complaints lack foundation and 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 complainants’ concerns that the advertisement is racist in its depiction of a Chinese swimmer called Mee Chee Ting as it plays on offensive stereotypes, and that the references to steroid use are not appropriate.

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 Practice Note for Section 2.1 of the Code of Ethics provides the following definitions:

- Discrimination – unfair or less favourable treatment
- Vilification – humiliates, intimidates, incites hatred, contempt or ridicule.

The Board noted that this television advertisement depicts a swimmer called Mee Chee Ting speaking in Mandarin while a male voiceover with an Australian accent translates.

The Board noted that the athlete depicted in the advertisement is speaking Mandarin and has been named Mee Chee Ting. The Board noted it had previously upheld a complaint about a radio advertisement which referenced an Asian man as Mr Ping Pong (0546/16):

“The majority of the Board noted that while imitating an accent is not of itself discriminatory ‘Ping Pong’ is not an Asian name: it is an offensive term that can be used to refer to a person of Asian descent.”

The Board noted that when Mee Chee Ting speaks Mandarin, a male voiceover translates and a minority of the Board considered that the voiceover is dismissive of the actual words spoken by the Mee Chee Ting which is suggestive of what she has to say being of little importance or value. A minority of the Board considered that the use of an Asian person speaking Mandarin and called Mee Chee Ting, coupled with a translator who dismisses what she is saying, amounts to a negative depiction of an Asian person which invites ridicule and is humiliating for people of Asian descent.

Following considerable discussion however, the majority of the Board noted that in the 1990s there was controversy surrounding the sudden winning streaks enjoyed by female Chinese swimmers, resulting in a number of Chinese swimmers testing positive for a type of steroid which was banned (<http://www.sbs.com.au/news/dateline/article/2016/08/01/look-olympic-doping-scandals-through-decades>) and considered that the advertisement is referencing this historical event rather than suggesting that all Chinese swimmers take illegal substances.

The majority of the Board noted the dismissive tone of the male voiceover translating the Mandarin spoken by Mee Chee Ting but considered that this is in keeping with the overall irreverent tone of the advertisement rather than suggesting that what the woman is saying is of no interest because of her race.

Overall the majority of 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 race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Board noted that the advertisement features a male voiceover saying that the new Sportsbet App puts the ‘roid in Android.

The Board noted it had previously upheld similar complaints about the reference of drug use in case 0234/17 and in case 0263/17 where:

“...the Board noted numerous statements in the advertisement: “no stranger to injecting powerful stuff in the back end.”; “new juiced up android app;” and “this human pin cushion can’t stop talking about its unfair advantage.”...

... In the Board’s view, the overall tone of the advertisement makes light of the use of performance enhancing drugs and of using performance enhancing drugs to cheat in sport.” The Board noted in the current advertisement that there are two references which could be interpreted as meaning drug use (‘unfairly fast’ and ‘putting the ‘roid in Android’). The Board noted that these comments are double entendre for taking performance enhancing drugs but considered that, consistent with its recent determination about a radio advertisement for Sportsbet which mentioned Chinese swimmers (0252/17), the advertisement’s minimal references and level of inference regarding a doping scandal does not create a strong message about drug use and cheating and does not suggest that there are benefits to gain from cheating or from behaviour that will enhance performance.

The Board considered that the advertisement did not depict, encourage or condone drug use, and did not depict material that was contrary to prevailing community standards on health and safety.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

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