



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0279-20</b>
<b>2. Advertiser :</b>	<b>Amnesty International</b>
<b>3. Product :</b>	<b>Community Awareness</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Pay</b>
<b>5. Date of Determination</b>	<b>23-Sep-2020</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.3 Violence

### DESCRIPTION OF ADVERTISEMENT

There are three versions of this Pay TV advertisement which go for different lengths: 90 seconds, 60 seconds and 30 seconds.

All three versions feature photographs and a voice over telling the story of Maria Teresa Riviera who in 2011 was sentenced to 40 years in prison following a miscarriage. The voice over describes how Maria gave birth prematurely, but the police charged her with murdering her baby. The voice over then asks for the caller to take action to prevent further injustices.

### THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*This ad was played on family movie station at 7:30 in the morning. My 9, 6 and 4 year old children were watching. Dead baby, blood and imprisonment where all words that got their attention. Not themes or topics I think they are ready to be exposed to.*

*The fact this ad is being show at 5pm on a weeknight, on each break in the program can, and would be extremely triggering to anyone with any trauma surrounding a pregnancy. Not only this, the channel that was being watched is child friendly and the content contained in the ad was highly inappropriate. Further more, to try and then insinuate that the only way to help this 'injustice' is to donate money is offensive. Attached is a screen shot from the ad which can be found on the website.*



## THE ADVERTISER'S RESPONSE

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

*Thank you for your letter dated 9 September 2020 in which you advise us that Ad Standards has received two complaints in response to a television advertisement used as part of Amnesty International Australia's (AIA) human rights fundraising campaign.*

*AIA takes all concerns raised by the public in relation to our work and advertising of our human rights campaigns very seriously. We would like to thank you for the opportunity to respond to the complaints you have received.*

*In this response, AIA will outline the background of the campaign and the rationale for the creative approach that was adopted. Whilst AIA is concerned that members of the public took issue with aspects of the campaign, we are confident that this response will demonstrate to the Ad Standards Board that the campaign was structured in a responsible way to address issues of human rights abuses like wrongful imprisonment and unfair trials, and that the advertisement is "justifiable in the context of the product of service advertised".*

*The advertisement that is the subject of complaint 0279-20 has been attached to this response for the Ad Standard's Board's review (Advert).*

### *Background - Amnesty International's Work for Human Rights*

*Amnesty International is a worldwide human rights movement of people with over 8 million members and supporters globally. Established in 1961, we work to address human rights violations around the world - whether it is a person who is persecuted for their sexuality in Iran, standing up for women's reproductive rights or advocating for those facing unfair trials and wrongful imprisonment.*

*AIA is part of that movement. As part of Amnesty International's network, AIA works in Australia to campaign on behalf of the world's most vulnerable people, including those who are subject to unfair trials, wrongful detention, torture, and other human rights violations solely because of their political, religious or other conscientiously-held beliefs, ethnic or national origin, gender or sexual orientation, colour, language or economic status.*

*For fifty-nine years, Amnesty International's team of researchers have investigated reports of human rights abuses and have used the evidence to send appeals to the authorities, lobby governments, generate media attention, and stage demonstrations and protests. By highlighting an individual's situation, we work to raise awareness and bring about lasting, positive change.*



*As with many other charitable organisations, AIA relies upon the generosity of the public to fund its important work. The response to AIA's fundraising television activity has been overwhelmingly positive since we began this awareness raising work in October 2019. A number of new financial supporters have been acquired and their generosity is vital in enabling Amnesty International to fight to free victims of injustice, like Maria Teresa Rivera who is the subject of the Advert.*

*AIA's television appeals feature a range of personalised stories of individuals who have been punished or discriminated against because of who they are, or what they believe in. The Advert explains the injustice those people face, and offers people the opportunity to support Amnesty International's work to help stop injustice and free people from wrongful imprisonment.*

*Prior to the launch of the television advertising campaign, AIA consulted with ClearAds to ensure the Advert adhered to classifications guidelines. ClearAds did not raise any issues in relation to the Advert infringing advertising standards or classification guidelines.*

#### *AANA Code of Ethics*

*We understand that the complaint received by Ad Standards alleges a breach of section 2 of the Australian Association of National Advertisers Code of Ethics (AANA Code) and, also, that the Advert was unsuitable for display in a public forum to which children may be exposed. We do not consider that the Advert is in breach of the AANA Code.*

*It is our understanding that the issues raised in the complaint are related to clause 2.3 of the AANA Code which prohibits violence in advertising. Nevertheless, for completeness, we do not consider that the Advert is in breach of clauses 2.1-2.2 or 2.4-2.7 of the AANA Code as there can be no reasonable suggestion that the Advert has sexual appeal, uses strong or obscene language, or has any material contrary to prevailing standards on health and safety, and the Advert is also clearly distinguishable as such to the relevant audience. In respect to clause 2.1 regarding discrimination, the Advert, while showing the effects of discrimination, does not discriminate against any person or class of people. Indeed, the very purpose of the Advert is to rally against human rights abuses, including discrimination.*

*In respect to clause 2.3 of the AANA Code, we note that many community awareness campaign advertisements contain images or scenes that may be considered 'graphic or confronting'. As we understand it, Ad Standards has, in the past, considered that the "important community message being delivered in the advertisement was a critical message that justified the use of an image that would grab the attention of the reader and would lead to an increased awareness and consideration of the serious issue" (see for example, decision 0411-19 Channel Nine St Vincent de Paul Bushfire Appeal, or decision 0166-20 Dolly's Dream). This includes when images are not stylised but are instead real depictions of the aftermath of violence (see for example, decision 88/02 St Vincent de Paul Society).*



*Further, we note that Ad Standards has made similar considerations for community awareness campaign advertisements containing narration that may be considered 'graphic or confronting', acknowledging that the "language used in the advertisement was emotive rather than violent and that the concepts being discussed were justifiable in the context of advertising a serious and emotive subject" (see for example decision 0129/19 United Nations High Commissioner for Refugees).*

*When people give money to causes, they do so as an expression of their passionately held beliefs and their desire to make the world a better place. Fundamentally, people want to make a difference. In order for them to make a difference, good causes need to make people aware of both the bad things, and the good things that are done to alleviate the bad things. For victims of injustice including wrongful imprisonment, people need to understand the nature of the injustice.*

*AIA takes very seriously our responsibility to tell the truth. However, we also know that human rights abuses are almost always violent and confronting. As such, we temper our portrayal of them in TV appeals. For example, the Advert did not include the most shocking details of Maria's case and we have ensured that the viewer is given a clear sense that we can help set victims of injustice free.*

*We appreciate that every individual who watches the appeal will see it in a different way. Contrary to the complaint received on 04/09/2020, our intention was not to "insinuate that the only way to help this 'injustice' is to donate money". We seek to offer people the opportunity to put right something that is wrong, and we do this responsibly.*

*In regards to imagery and subject matter, we acknowledge that some may find the Advert graphic or confronting. AIA wholeheartedly sympathises with those viewing the ad who have experienced the loss of a child, yet we feel that the content relates to an important issue of injustice that needs to be raised with a wider audience.*

*Overall, we believe that Advert depicted does not portray or present actual violence and the impact of the Advert is not overt or extreme. In AIA's view, the Advert is responsible and restrained in the context of the terrible injustice suffered by Maria Teresa Rivera and others like her. For these reasons, it is AIA's view that the advertisement is consistent with the objectives of section 2 of the AANA Code.*

*AANA Code for Advertising and Marketing Communications to Children*

*We also do not consider that the AANA Code for Advertising and Marketing Communications to Children (AANA Children's Code) applies as the Advert is not directed - and does not have - principal appeal to children.*

*The AANA Children's Code defines children as persons 14 years or younger and will only apply if an Advert is "directed primarily at children". The themes, visuals, and language of the Advert clearly supports the assertion that the message is directed*



*towards adults. One of the purposes of the Advert is to garner support in the form of a donation to help obtain justice and freedom for victims of human rights abuses including wrongful imprisonment. Engaging in contemporary issues such as these are by their nature directed at an adult audience. The Advert requests the viewer to send an SMS or to call the number displayed on screen to give a donation in support for human rights. The use of a phone as a medium provides further evidence that the Advert is not directed at children. In any event, AIA does not accept donations from individuals younger than 18.*

*AIA further contends that as the images are not extreme and as it is unlikely that many members of the community (including children) would suffer “an emotive response such as disgust, disturbance and/or nausea” it is not in breach of the AANA Children’s Code. Whilst AIA acknowledges that certain subject matters and images are unsuitable for viewing in public forums that may be exposed to children, AIA is of the view that the Advert does not fall within this category.*

#### *Final remarks*

*We believe the Advert complies entirely with both the AANA Code and the AANA Children’s Code:*

- It complies with the law.*
- It is neither misleading nor deceptive.*
- It contains no misrepresentation likely to cause damage to the business or goodwill of a competitor.*
- It does not exploit community concerns in relation to protecting human rights by presenting or portraying distinctions in products or services advertised in a misleading way or in a way which implies a benefit to the environment which the product or services do not have.*
- It does not make claims about the Australian origin or content of products advertised in a manner which is misleading.*
- It does 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.*
- It does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.*
- It does not present or portray violence unless it is justifiable in the context of the product or service advertised.*
- It treats sex, sexuality and nudity with sensitivity to the relevant audience.*
- It only uses language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language is not used.*
- It does not depict material contrary to Prevailing Community Standards on health and safety.*



*We thank you for the opportunity to respond to the complaint and trust that this response addresses Ad Standard's concerns. As raised above, AIA's campaigns are critical in raising community awareness of violations of human rights and the discrimination faced by marginalised groups in our society and abroad. Accordingly, we ask that the complaint be dismissed.*

## **THE DETERMINATION**

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

The Panel noted the complainants' concerns that the advertisement featured words such as 'dead baby', 'blood' and 'imprisonment' which is inappropriate at a time when children may be watching and which could be distressing for anyone who has experienced any trauma surrounding a pregnancy.

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

The Panel considered whether the advertisement was 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 the advertiser's response that the advertisement does not portray or present actual violence and the impact of the advertisement is not extreme.

The Panel noted that all three versions of the advertisement feature a voice-over detailing how a woman had a miscarriage and gave birth prematurely resulting in her being charged with murdering her baby. The Panel noted that none of the advertisements refer to blood or show images other than the woman's face.

The Panel considered that the words and images in the advertisement were not violent, however noted that the theme and language did have the potential for causing distress. The Panel considered that the point of the advertisement was to create an emotional response in order to relate an important message. The Panel considered that the words 'murdered her baby' and 'miscarriage' may be considered violent by some members of the community, however this violence was directly relevant to the message being promoted.

The Panel noted the complainants' concern that the advertisement was played on a medium where children could view the advertisement, however considered that

the imagery in the advertisement was not graphic or excessive in the context of the message being advertised or the audience likely to view the advertisement.



In the Panel's view the violence portrayed in the advertisement was relevant to the message being advertised and the advertisement did not breach Section 2.3 of the Code.

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