



**ADVERTISING
STANDARDS
BUREAU**

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Case Report

1	Case Number	0283/11
2	Advertiser	Specsavers Pty Ltd
3	Product	Professional services
4	Type of Advertisement / media	TV
5	Date of Determination	10/08/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Disability

DESCRIPTION OF THE ADVERTISEMENT

A man cheering for a young boy winning a running race. The man mistakenly believes the boy to be his son, Angus, because the man is not wearing glasses. The TVC concludes with a voiceover in words to the effect of 'Should have gone to Specsavers'.

THE COMPLAINT

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

They have portrayed this man as not being able to see properly and the people behind him make fun of him. This borders on discrimination.

THE ADVERTISER'S RESPONSE

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

We believe the TVC does not contravene the Advertising Association of National Advertisers Code of Ethics (Code).

About Specsavers

Specsavers entered into the Australian wholesale optical market in January 2007 supplying frames, lenses and complete spectacles to retailers. In February 2008, Specsavers opened its first retail store in Australia and since that date, Specsavers has engaged in the business of:

- (a) the provision of eye examinations;*
 - (b) sale of eye care products, including frames and lenses and contact lenses; and*
 - (c) provision of other goods including solutions and glasses and optical lens accessories.*
- Since entering the Australian market, Specsavers has opened 253 stores across Australia and through a 'two for one low price' pricing strategy has assisted in making glasses more affordable and accessible for Australians.*

The relevant section of the Code

Section 2.1 of the Code states:

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, sex, age, sexual preference, religion, disability or political belief.

The meaning of the words "disability", "discrimination" and 'vilification'

The Code does not define the terms 'disability', 'discrimination' or 'vilification'.

The word "disability" is defined in s 4 of the Disability Discrimination Act 1992 (Cth) (the Federal Act) to mean:

- (d) total or partial loss of the person's bodily or mental functions;*

The Macquarie Dictionary defines 'disability' as lack of competent power, strength, physical or mental ability.

'Direct Disability Discrimination' is defined in s 5 of the Act as follows:

- (1) For the purposes of this Act, a person (the discriminator) discriminates against another person (the aggrieved person) on the ground of a disability of the aggrieved person if, because of the disability, the discriminator treats, or proposes to treat, the aggrieved person less favourably than the discriminator would treat a person without the disability in circumstances that are not materially different.*

The Macquarie Dictionary defines 'vilification' as speaking evil of.

The Macquarie Dictionary defines 'discrimination' as making a distinction, as in favour of or against a person or thing.

"Vilification" is not defined in the Federal Act. Section 20B of the Anti-Discrimination Act 1977 (NSW) (the NSW Act), refers to "public acts" of vilification in the context of racial vilification. That section refers to the incitement of 'hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race of the person or members of the group'.

The meaning of blindness

Vision Australia defines blindness to mean 'not being able to see at six metres what someone with normal vision can see at 60 metres'. According to Vision Australia, a person is legally blind if their field of vision is less than 20 degrees in diameter. A person with normal vision can see 180 degrees.

The TVC

We do not believe that the TVC portrays the man in a way that discriminates or vilifies him or a section of the community on the grounds of disability. The following reasons are inherent to this view:

- (a) The man depicted in the TVC does not have a disability. He is not blind. Rather, the man suffers from slight vision impairment capable of being remedied with prescription glasses.*
- (b) The depiction of the man in the TVC not being able to see which child is his son is not discriminatory. It is clearly a joke is made in jest. His mistake is reasonable, bearing in mind*

both the winning child and the man's son are wearing blue singlets and look very similar (being similar in size, stature and hair colour). By creating this scenario, Specsavers is demonstrating that a person who suffers from slight visual impairment when they do not wear prescription glasses may make embarrassing mistakes in everyday life and experience good-natured laughter in situations where their visual impairment becomes apparent to friends.

(c) The TVC depicts a fun, social event in which the man is participating. As the TVC begins, the man is shown facing and interacting with the couple behind him. When that couple later giggles at the man's mistake, the man does not experience treatment less favourable than somebody else who is not visually impaired. He is simply made aware of his mistake by friendly laughs. This situation prompts him to realise he should probably get his eyes tested.

(d) Overall, the TVC's objective is to highlight the normalcy of experiencing slight vision impairment and to demonstrate how even insubstantial vision impairment can affect day-to-day activities, sometimes embarrassingly. Specsavers' intention was never to discriminate or make fun of people who suffer from blindness or serious, untreatable vision impairment and we do not believe reasonable consumers would interpret the TVC in that manner or offended by it.

THE DETERMINATION

The Advertising Standard Board ('the Board') considered whether the advertisement complied with the AANA Code of Ethics ('the Code').

The Board noted the complainants' concerns that this advertisement is discriminatory as it shows people laughing at a man who cannot see properly.

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 the advertisement shows a man cheering when a child wins a running race and the couple with him laughing as he has been cheering the wrong child. The Board noted the advertisement was for Specsavers and features the tagline, "should have gone to Specsavers."

The Board noted that the overall tone of the advertisement is lighthearted and humorous. The Board considered that the depiction of the couple laughing at the man was in the context of an amusing faux pas observed by friends and was not intended to be making fun of people who are visually impaired. The Board considered that the advertisement was not discriminatory towards people who may need glasses or to people who are blind.

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.