



Case Report

1	Case Number	0314/17
2	Advertiser	Sportsbet
3	Product	Gaming
4	Type of Advertisement / media	Internet
5	Date of Determination	09/08/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Race

DESCRIPTION OF THE ADVERTISEMENT

Mee chi ting (presumably a reference to Chinese English), an athletic Chinese woman smiles at the camera to say in Chinese instructions for the sports bet app.

THE COMPLAINT

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

There are a few layers to this ad of which some are just poor taste , while others are more objectionable. I understand there already has been complaints due to the attempt at humour with the tongue in cheek association with illegal performance enhancement. I am not too bothered by this aspect. It pokes fun at famous athletes who were proven to have used banned substances.

However, I am more offended by the derogatory portrayal of the chinese swimmer, who obviously is a male dressed in a female swimsuit, with a fake name that attempts to make a funny pun: "mee chee ting" (ie. Me cheating). This is on a different level to the other ads based on Ben Johnson and Lance Armstrong because there was no such person called "Mee Chee Ting". It is not mocking a particular individual, but making a generic mockery of any female swimmer who is chinese. If the ad actually targeted the particular individual female swimmers (eg Yuan Yuan) who was proven to have used illicit substances, I would have no objection. But using names of real drug cheats would have robbed the ad of its punchline. By using a fake name, I feel this is stereotyping and racist. It is making fun of how chinese names sound or the english phoenetics of chinese names, while also smearing any female swimmer

of chinese origin. It is along the same lines of the incident in which a San Francisco news outlet decided to poke fun at Asian names by making puns associated with an air crash: <https://thinkprogress.org/tv-reporter-identifies-pilots-of-plane-crash-with-fake-racist-names-de8d2efb6b0b>

THE ADVERTISER'S RESPONSE

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

Sportsbet refers to its earlier submission to the ASB dated 9 June 2017 in relation to complaints received in response to the Advertisement on TV – Free to air, and relies upon those same matters here. Sportsbet also refers to the ASB's determination dated 29 June 2017 in which the ASB determined that the Advertisement does not breach section 2.1 of the Code, including in relation to 'Discrimination or Vilification race'.

In Sportsbet's submission the Complaints lack foundation and should be dismissed.

Previous response: 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 unfavourably 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.

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 is racist in its depiction of a Chinese swimmer called Mee Chee Ting as it mocks female Chinese swimmers and makes fun of Chinese names.

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 it had previously dismissed complaints about the same advertisement when it was aired on television in case 0276/17 where:

“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.”

Consistent with its previous determination the Board considered that the advertisement has an overall irreverent tone and its use of a female Chinese swimmer with a made up name is intended to be a reference to an historical event rather than a negative stereotypical depiction of female Chinese swimmers.

Overall the Board considered that this internet 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.

Consistent with its determination against the same advertisement when aired on television (0276/17), 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 complaint.

