



Case Report

1	Case Number	0355/17
2	Advertiser	Southern Cross Austereo
3	Product	Entertainment
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	09/08/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Physical Characteristics
- 2.6 - Health and Safety Bullying (non violent)

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement is one of a series of television commercials promoting the 2Day FM radio station and the Em Rusciano Radio Show with Harley Breen breakfast program.

The Advertisement comprises a discussion by the announcers on the topic of red heads. Em Rusciano states that she loves red heads as she married one and gave birth to one. She then proceeds to express excitement that red heads are getting emojis. In this discussion, the following words are used to describe red heads:

- “ginga”, “ginger ninjas” and “gingies” (Harley); and
- “ginger” and “gingas” (Em).

THE COMPLAINT

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

My partner and I were hugely offended by the below:

- Use of redhead bullying names like ginge, ranga & the list went on & on
- It was a 30 minute slot on redhead bashing
- Em Ruscisno said she's allowed to say it because she has a redhead kid, this is absolutely appalling.

- *The ad encourages redhead bullying*
- *Being a redhead is hard enough but these ads mean bullying on social media*

I would happily speak publicly about this & have a large social media following which can get behind this too. Happy to do media around this to help get a public apology.

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 letter in relation to a complaint (Complaint) which was submitted to the Advertising Standards Bureau regarding an advertisement for Southern Cross Austereo (Advertiser) which promotes the 2Day FM radio station and the Em Rusciano Radio Show with Harley Breen breakfast program (Advertisement).

We have now had an opportunity to review the Complaint and the Advertisement to which it refers.

Please find below our comprehensive comments in relation to the Complaint.

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement was filmed by the Advertiser but created by an external supplier - The Post Lounge - in response to a brief by the Advertiser.

The Advertisement is one of a series of television commercials promoting the 2Day FM radio station and the Em Rusciano Radio Show with Harley Breen breakfast program. Contrary to the assertion made in the Complaint, the Advertisement runs for 30 seconds and not 30 minutes.

The Advertisement comprises a discussion by the announcers on the topic of red heads. Em Rusciano states that she loves red heads as she married one and gave birth to one. She then proceeds to express excitement that red heads are getting emojis. In this discussion, the following words are used to describe red heads:

- *“ginga”, “ginger ninjas” and “gingies” (Harley); and*
- *“ginger” and “gingas” (Em).*

Contrary to the assertion made in the Complaint, the word “ranga” was not used anywhere in the Advertisement.

We attach the script and a digital copy of the Advertisement as requested.

BROADCAST OF THE ADVERTISEMENT

Free TV Australia, through its entity Commercials Advice Pty Ltd, classified the Advertisement on 15 June 2017. The Advertisement was issued with a CAD reference number of 1180389 and CAD rating of G.

Our Media Agency (MAXUS) had booked one spot in How I Met Your Mother to be broadcast between 7:30pm and 7:59pm on Channel 11 on Friday 7 July 2017. This is consistent with the time set out in the Complaint.

No advertising agency was used for the Advertisement.

SECTION 2.1 AND 2.6 OF THE AANA CODE OF ETHICS

We understand that the Complaint was made under section 2 of the AANA Code of Ethics (Code), and in particular sections 2.1 (Discrimination or Vilification Physical Characteristics) and 2.6 (Health and Safety Bullying (non-violent)).

Section 2.1

Section 2.1 of the Code 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, gender, age, sexual preference, religion, disability, mental illness or political belief.

It is our view that the Advertisement does not breach section 2.1 for the following reasons:

- Red heads are not a distinct race, ethnic group or nationality but rather have hair and skin colouring common to various ethnic groups.*
- Even if it were to be found that red heads are intended to be covered by the terms “race” or “ethnicity” under the Code, the Advertisement neither portrays red heads in a way that discriminates against, or vilifies, them, nor does it depict material which has that effect.*
- The tone of the Advertisement is one of light banter, and the prevailing intention that of affectionate humour, rather than malicious or intentional hurt. This is clear from the fact that Em states that she “loves a red head”, “married one” and “birthed one”. The conversation even celebrates red heads on the basis that they now have their own emojis:*

Em: Did you see that? Red heads are finally getting emojis!

Harley: They’re getting their own emojis.

Em: It’s happening! I’m so excited as the mother of a ginger.

Harley: Oh well done gingies.

Further, the Advertisement did not present any negative comments about red-headed people or suggest that red-headed people should be thought less of. A reasonable person would, in our view, appreciate that the Advertisement was intended as light-hearted fun and to be reflective of the on-air content and tenor of the radio show, rather than depict red heads in a way that either discriminates against or vilifies them.

Section 2.6

Section 2.6 of the Code provides that Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety. The ASB has asked us to address this section in the context of Bullying (non-violent).

It is our view that the Advertisement is not in breach of section 2.6 for the same reasons as those set out in relation to section 2.1 above. In addition, we refer to the AANA Code of Ethics Practice Note relating to section 2.6, which states:

Bullying - the age of people depicted in an advertisement, their relationship to each other and the nature of the communication are relevant in determining whether an advertisement constitutes bullying and is contrary to Prevailing Community Standards.

We submit that (i) the clearly affectionate and light-hearted tone used in making all of the references the subject of the Complaint (nature of the communication); (ii) the fact that Em and Harley are two adults (no power imbalance); and (iii) the fact that they were effectively cheering for red heads in the Advertisement, collectively ensure that the Advertisement does not breach section 2.6.

OTHER SECTIONS OF THE CODE

In our view, the Advertisement does not raise any issues under the other sections of the Code, because the Advertisement:

- *does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people (section 2.2);*
- *does not present or portray violence (section 2.3);*
- *does not present sex, sexuality or nudity (section 2.4);*
- *does not use inappropriate, strong or obscene language (section 2.5); and*
- *was clearly distinguishable as a message paid for by the Advertiser to promote one of its radio shows.*

CONCLUSION

For the reasons set out above, we submit that the Complaint should be dismissed. We look forward to the ASB's determination.

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 derogatory toward people with red hair and is encouraging bullying behaviour.

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 advertisement features two radio presenters Em Rusciano and Harley Breen promoting their show and discussing the new introduction of emojis with red hair. The banter between them includes the use of words to describe people with red hair such as 'ginga,' 'ginger ninjas,' and 'gingies.'

The Board noted the complainant's concerns that the advertisement is derogatory to red heads and encourages bullying.

The Board noted that as the banter continues Em Rusciano declares that she is the mother of a ginger and that she is therefore allowed to use commonly heard names such as 'ginga' and 'ginger ninjas.'

The Board noted that there is no visual depiction of the emojis or the child that Em is referring to.

The Board noted that it had previously considered complaints relating to discrimination based on the portrayal of someone with red hair in case reference 0089/13 – Guys Grooming. In this matter the Board considered a poster that depicts a young man holding a fully clothed young girl in a pool. The tag line is "Ranga's Do Get Lucky. \$25 off this month for all rangas!"

In the matter above, the Board considered that "that the image and text are in no way derogatory or negative toward people with a particular hair colour and that the picture portrays the young man as a strong and heroic youth as he holds the young woman in the water rather than less masculine or less capable than a man with hair of any other colour."

The Board noted the Practice Note to Section 2.1 provides the following definitions:

"Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."

The Board considered that in the current advertisement the reference to people with red hair as gingas and ginger ninja's etc is said as a term of endearment and there is actual delight in the fact that there is now the inclusion of a red haired emoji which is a wider acceptance of people with red hair rather than a more limiting one.

In the Board's view the banter between the two hosts is not derogatory or intended to ridicule or humiliate people with red hair and there is not a depiction of any negative consequence or reference to having red hair.

The Board considered that the advertisement does not condone or encourage discriminatory treatment of people with red hair and that the advertisement does not portray negative stereotypes of redheads.

Based on the above the Board determined that, in this instance, that the advertisement did not depict any material that discriminated against or vilified any person or section of society and did not breach Section 2.1 of the Code.

The Board then 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 considered the complainant’s concerns that the advertisement encourages bullying of people with red hair.

The Board noted that there is significant community concern around the issue of bullying but considered in this instance the advertisement did not depict, encourage or condone verbal bullying or intimidation in any form and that the references were light-hearted and in-line with the type of radio broadcast program.

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