



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0360-19
2. Advertiser :	News Corp
3. Product :	Media
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	13-Nov-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.5 Language

DESCRIPTION OF ADVERTISEMENT

This television advertisement presents a series of news scenes: imagery, headlines and graphics from The Australian newspaper's coverage. The scenes are shown in quick succession.

This montage of news-imagery is paired with a voiceover stating:

- Make sense of a changing world (iconic images of President Donald Trump)
- Inform your view of the world with different perspectives and points of view on the big issues in Australian society (images representing trade with China, Drought relief, indigenous rights, Folau controversy, freedom of the press)
- Go beyond the headlines with deep investigations and thorough follow-through on stories (Steve Smith controversy and return, Ash Barty successes, the Wallabies road to the world cup, podcast investigations into conman Hamish Watson and the disappearance of Lyn Dawson)

The advertisement ends with The Australian branding: The Australian - For the informed Australian.

The subject of complaint is an image with a cartoon hand "giving the finger".

THE COMPLAINT

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



I think showing a large raised middle finger is offensive and unacceptable and it upsets me.

THE ADVERTISER'S RESPONSE

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

This submission is made in response to the complaint made on 3 October 2019 (Complainant) who describes 'showing a large raised middle finger' as "offensive and Unacceptable".

The advertiser respectfully disagrees for the reasons given below with respect to each of the provisions of section 2 of the AANA Code of Ethics. In response, the Advertiser acknowledges that the Public Community Standards upon which this advertisement is to be assessed are those dated July 2018.

As outlined in the description of the advertisement, above, the purpose of the advertisement is to show the range of news, opinion and analysis that readers can find in the pages of The Australian. The advertisement features content that has been exposed in news coverage not only by The Australian but, in most instances, by a range of media outlets.

The complaint particularly references an image in the montage of scenes that is a political cartoon by the Walkley Award Winning Cartoonist, Jon Kudelka. The cartoon is a provocative visual commentary on the Government's response to the 'Uluru Statement from the Heart' presented by the Aboriginal and Torres Strait Islander Referendum Council after their First Nations National Constitutional Convention held in 2017. The cartoon is a visual commentary on the Government's response to the Statement - a response which divided the country at the time and in many regards, continues to do so.

The cartoon was published in The Australian on the 30 October 2017 and won the 2018 Walkley Award for Best Cartoon/Artwork. As the Walkley judges commented: "From The Heart" very simply and powerfully captures how many felt after the Government so quickly dismissed the central recommendation of the Uluru Statement From The Heart. Whether you agree or disagree with the sentiment, Kudelka's work is an excellent example of what a political cartoon should be. It makes a searing comment in a clever, impactful way."

In this advertisement, the cartoon is presented as the voiceover reads: "For knowing where you stand on the big issues". In this context the cartoon illustrates the robust and impassioned discourse which happens in and around the news.



The use of the middle finger in this context is not obscene. In fact, the depiction and use of that gesture is often used in farce and satire today. In this instance, it is an essential element of the creative representation of the political comment.

The media schedule for this spot includes advertising on channel Seven, SBS and Foxtel - the placement specifically targets news environments and programming with an audience of news-engaged adults (35-54).

We also provide the following additional comments in relation to Section 2 of the AANA Code of Ethics, as you requested, in respect of the relevant advertisement, more generally.

2.1 - Discrimination or vilification – This advertisement illustrates the breadth and benefits of The Australian’s news coverage. The advertisement does not discriminate against or vilify any person or section of the community on any account. It therefore does not contravene subsection 2.1.

2.2 - Exploitative or degrading - This advertisement does not employ sexual appeal at all or in any sense. The advertisement therefore does not and is not alleged to be exploitative or degrading of any individual or group of people and does not contravene subsection 2.2.

2.3 – Violence - This advertisement does not and is not alleged to present or portray violence and does not contravene subsection 2.3.

2.4 - Sex, sexuality and nudity - This advertisement does not and is not alleged to feature, reference or portray sex, sexuality or nudity and does not contravene subsection 2.4.

2.5 – Language – As referenced above in the information provided in relation to the cartoon, we do not believe that the use of the cartoon was inappropriate in the relevant circumstances. The depiction of that gesture is not uncommon in farce and satire today. We do not believe that the cartoon or any other language or depiction in the advertisement was inappropriate in the circumstances or was obscene.

2.6 - Health and Safety - This advertisement does not and is not alleged to depict material contrary to prevailing community standards on health and safety and does not contravene subsection 2.6

2.7 - Distinguishable as advertising – The advertisement is clearly distinguishable as an advertisement. This is apparent from its presentation in ad breaks as well as the inclusion of the following creative elements:

- static news photography in a “video” environment,*
- application of logos and textual overlay,*
- background music,*
- voice over, and,*
- structure (resolving with a branded endframe)*

This advertisement does not contravene subsection 2.7

We hope this is sufficient material for the consideration of the Complaint by the Panel.

THE DETERMINATION



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

The Panel noted the complainant's concern that the advertisement features a raised middle finger which is inappropriate and offensive.

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

The Panel considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: "Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided".

The Panel noted that it is reasonable to include gestures as part of considerations regarding language and therefore it is appropriately considered within section 2.5 of the Code.

The Panel noted that the advertisement had been given a 'G' rating by ClearAds and the relevant audience would be broad and likely to include children.

The Panel considered noted that it had considered a similar issue in case 0477-17, in which:

The Panel considered that although specific words are not used the advertisement contains an image that is a universally recognised gesture meaning "up yours".

"The Board noted that whilst most members of the community would not expect an image to be displayed of a teenager holding their middle finger up it considered that the overall tone of the image is not aggressive and with the finger touching the boy's mouth there is less impact and did not promote anti-social behaviour or endorse inappropriate language."

Similar to the previous case, the Panel considered that in the current advertisement the image is displayed fleetingly as part of a montage of images relating to news coverage in Australia, and the fleeting nature meant that the gesture was less impactful.

The Panel noted the advertiser's response that the purpose of the advertisement is to show the range of news, opinion and analysis featured in the Australian.

The Panel noted that the image under complaint is a cartoon representation of Uluru shaped to look like a hand with the middle finger extended, and the purpose of this image was political commentary.

The Panel considered that it was appropriate for an advertisement to use images from the newspaper it is advertising.



The Panel considered that the advertisement did not use strong or obscene language and the gesture was not inappropriate in the context of the product advertised and the overall context of the advertisement. The Panel determined that the advertisement did not breach Section 2.5 of the Code.

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