



Case Report

1	Case Number	0378/13
2	Advertiser	KIA Automotive Australia
3	Product	Vehicle
4	Type of Advertisement / media	Radio
5	Date of Determination	13/11/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Sexual preference

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement involves a voice over artist telling a fictional anecdote about being told by the women he is dating that she is a man and her name used to be Steve. When he realises he is on air he acknowledges that having his anecdote overheard amounts to an uncomfortable moment and then continues to outline the features that make a Kia Cerato so comfortable.

THE COMPLAINT

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

It turns transgender or gender queer people into a joke and is discriminatory. Anti-discrimination law specifically prohibits 'severe ridicule' of people who are transgender.

THE ADVERTISER'S RESPONSE

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

I refer to your letter to KIA Automotive Australia dated 24 October 2013 concerning the investigation by the Advertising Standards Bureau (ASB) in relation to a complaint received relating to a recent Kia Cerato advertisement broadcast on Nova 100.

We note that your letter is addressed to KIA Automotive Australia (KIA). KIA has requested that we assist them with a response and manage all correspondence regarding this investigation and Nova 100 has agreed to assist in this regard.

The Advertisement is an irreverent tongue in cheek promotion for Kia Automotive Australia based on a premise that a KIA Cerato has so many comfort features that there is never an uncomfortable moment when sitting in a KIA Cerato, no matter what the situation.

The Advertisement involves a voice over artist telling a fictional anecdote about being told by the woman he is dating that she is a man (i.e. an uncomfortable moment) before and after recording a voice over outlining the features that make a Kia Cerato so comfortable.

Whilst we can understand and appreciate the complainant's point of view in respect of the Advertisement, Nova 100 does not think that the Advertisement is in breach of the AANA Advertiser Code of Ethics or other applicable regulation.

AANA Advertiser Code of Ethics

Advertising Standards Bureau

The complainant raised concerns that the Advertisement contains comments relating to discrimination and vilification of people who are transgender.

At the outset it is important to note that Nova 100 does not consider itself strictly bound by the Code. Nevertheless, as a matter of corporate policy and broadcasting practice, Nova 100 uses its best endeavours to comply with the Code at all times.

We believe that the section of the Code most relevant to the complaint is Code 2.1 'Portrayal of People'.

Section 2.1 of the Code provides that:

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 ... sexual preference....

Code 2.1

Whilst we acknowledge that using the device of an unexpected revelation with regards to a person's sexuality as an example of an "uncomfortable moment" is somewhat unique, we do not consider that the Advertisement contains any comments or statements of ridicule that would be considered vilification of people who are transgender nor do we consider that the Advertisement contains any connotations or makes any negative judgements of transgender people that could be considered to be discriminatory towards people who are transgender.

The tone of the Advertisement is intended to be light-hearted and the fictional anecdote (i.e. the uncomfortable moment) used as a device to illustrate the contrast between the comfort features of the Kia Cerato versus moments that are uncomfortable. Whilst we acknowledge that the uncomfortable moment used in the Advertisement was unconventional and may not be to everyone's liking, we do not believe that the Advertisement was discriminatory towards people who are transgender or could be deemed as vilification of people who are transgender, in particular we do not believe that the Advertisement contravenes Code 2.1.

We note that we have not received any other complaints regarding this Advertisement.

In light of the context in which the Advertisement was broadcast, Nova 100 believes that the majority of its audience would regard the Advertisement as light-hearted and irreverent.

For these reasons, Nova 100 strongly believes that the Advertisement does not breach clause 2 of the Code.

Advertising Standards Bureau

Whilst Nova 100 does not consider that the Advertisement raises issues under section 2 of the Code, Nova 100 does value feedback on the Advertisement and intends to monitor any similar complaints received in the future to ensure that these advertisements are not offensive to a significant proportion of the community.

We would welcome the opportunity to provide any further clarification that the ASB may

require in relation to this matter.

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 makes fun of transgender people which is discriminatory.

The Board reviewed 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 a radio presenter telling a story about how he used to date a woman who confessed that she used to be a man called Steve.

The Board noted the complainant’s concerns that the advertisement is making fun of someone because they are transgender. The Board noted that the advertisement depicts a radio announcer realising that a private story he is telling has just been broadcast on air and that he acknowledges his discomfort in knowing that listeners have heard what he said. The Board considered that the most likely interpretation is that the radio presenter is embarrassed about broadcasting a personal story rather than being embarrassed about having dated a person who had undergone a change in sex. The Board noted that the advertisement does not make any reference to whether undergoing a sex change is good or bad and considered that the overall tone of the advertisement is not mocking or making fun of transgender people.

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.

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 complaints.