



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0458/16</b>
<b>2</b>	<b>Advertiser</b>	<b>Aldi Australia</b>
<b>3</b>	<b>Product</b>	<b>Clothing</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>09/11/2016</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- 2.1 - Discrimination or Vilification Race
- 2.4 - Sex/sexuality/nudity S/S/N - sexualisation of children

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features children depicted in a beach-side setting to promote ALDI's range of children's clothing, designed by Collette Dinnigan, which includes casual wear, swim wear and pyjamas.

## THE COMPLAINT

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

*Representation of children in an inappropriate manner to sell bathers. Not culturally diverse either.*

*As someone who practices photography-(BFA 1999- Uni of Melbourne- photography major) and who is qualified and experienced in the industry, with several art awards- I am going to say that the Advertising Standards Bureau' needs to have a conversation and debate regarding how children are represented and what should be done about a standard set of guidelines to make sure this sort of thing doesn't slip through.*

## THE ADVERTISER'S RESPONSE

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

*Thank you for bringing these two complaints to our attention.*

*The complainants state that "ALL the models being blonde blue eyed tanned Caucasian in a multicultural society", and that this "could also be considered somewhat racist". The complainants also state that the advertisement is "not culturally diverse either. "The great Aryan Race" in the ad is offensive and exploitative of children."*

*If the complaint was an accurate portrayal of the advertisement - which it is not - it might engage section 2.1 of the AANA Code of Ethics (the Code):*

*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 apparent that the complaints centre on the use of solely Caucasian models. However, as is clear from viewing the TVC or a review of the catalogue in question, there is clearly a model of Asian descent who appears multiple times.*

*Furthermore, to breach section 2.1 of the Code, it must be evident that ALDI has discriminated against or vilified a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief. There is no basis for describing the campaign in question as having discriminated against or vilified any member or group of the community. ALDI submits that the advertisements cannot be said to be in breach of section 2.1 of the Code.*

*ALDI is proud to say that any review of our marketing program, including our weekly catalogue, our TV commercials and other communications, will demonstrate that we reflect the diversity of the Australian community, including different ages, genders and ethnicities.*

*The complainants state that "Images of children who appear aged 12 years and under, particularly the girls in swimwear the product itself heighten the inappropriateness [sic].", and "Representation of children in an inappropriate manner to sell bathers". It is stated further that "one [child] was wearing lip gloss"*

*If the complaint was an accurate portrayal of the advertisement - which it is not - it might engage section 2.4 of the AANA Code of Ethics (the Code):*

*Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.*

*Both the TVC and the catalogue depict the children in a typically child-like manner, that is, having a fun day at the beach participating in child-like activities. Given the product range in question is swimwear, this is a completely appropriate and natural setting, and does not evoke 'sex, sexuality and nudity' in any manner whatsoever. It is also impossible to see*

*whether any of the talent are wearing “lip gloss.”*

*ALDI submits that the advertisements cannot be said to be in breach of section 2.4 of the Code.*

*We note that the ASB’s letter to us has indicated that our response should not be confined to section 2.1 and 2.4, but should address all parts of Section 2 the Code. We can see nothing in the advertisement which could possibly raise any objection under any other part of Section 2 of the Code.*

*Please don’t hesitate to contact me if you require any further information to make a 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 not culturally diverse and that it included children and teens in swimwear in adult poses.

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 while diversity in advertisements is desirable, there is no obligation for advertisers to use diversity in advertisements, and that a lack of cultural diversity does not in itself constitute discrimination or vilification.

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.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Board noted that the children depicted in the advertisement were all shown wearing appropriate clothing, and were acting and posed naturally. The Board considered that none of the children in the advertisement were sexualised or acting in an adult manner.

The Board considered that the advertisement did not include sex or sexuality and the children were dressed in an appropriate manner for the audience.

The Board determined that the advertisement did not breach Section 2.4 of the Code.

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