



Case Report

1	Case Number	0494/16
2	Advertiser	Ubet
3	Product	Gaming
4	Type of Advertisement / media	Internet
5	Date of Determination	07/12/2016
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.1 - Discrimination or Vilification Race
- 2.6 - Health and Safety Unsafe behaviour

DESCRIPTION OF THE ADVERTISEMENT

This internet advertisement features Jonathan Brown's message to the Queen imploring her to make Melbourne Cup Day a National Public Holiday. We see 'Brown' in a Downton Abbey-like setting with a jockey acting as man-servant. We see the jockey firing clay pigeons for Brown to aim the footy at, serving tea and holding a footy on his head for Brown to fire an arrow at. Brown talks about how his message to Malcolm Turnbull didn't work last year so he hopes the Queen can intervene.

THE COMPLAINT

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

The ad features racist imagery. It deliberately uses imagery of British colonialism and the subjugation of Indian people. Core to my complaint is that Jonathon Brown is followed around by a man of Indian descent who is dressed as a jockey and acting as his servant. Further in several scenes he shows complete disregard for the safety of his employee (slave?) conveying an attitude that this person is not of the same worth as him.

There is no doubt that this is a stereotypical and racist portrayal of Indians as servants, lackeys and even as property to be treated with disdain, arrogance and violence. This advertisement attempts to replicate scenes which show the oppression and mistreatment of

Indians in an attempt to be humorous in order to sell the gambling industry. It is offensive along race lines.

I was offended by the racist overtones in Brownie's disrespect, disregard and blatant racial segregation and denigration in relationship to his brown skinned 'jockey/servant' who was portrayed as stupid, idiotic, worthless, voiceless and frankly as an object who could be toyed with, messed with, disregarded and ultimately disrespected. This portrayal of white monarchy and supremacy goes against the very grain of multi-culturalism in this country. I was appalled and disgusted. I understand it was supposed to be in the realm of 'comedy' and tongue in cheek; however it lands really badly out here.

THE ADVERTISER'S RESPONSE

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

<music swells>=Response to ASB complaint Reference Number 0494/16

I refer to your letters enclosing a copy of complaints received by the Advertising Standards Bureau about a UBET social media video advertisement.

As requested, UBET has considered the complaints and section 2 of the AANA Advertiser Code of Ethics and offers the following information and comments to assist the consideration of the complaints at the forthcoming meeting of the Advertising Standards Board.

Description of advertisement

This is a 2:12 minute social media video advertisement for UBET (#UBETWECAN 2.0).

The advertisement is an extension of the 2015 campaign where UBET ambassador Jonathan Brown rallied Australians to 'share' his message in the hope that Australian Prime Minister Malcolm Turnbull would consider making Melbourne Cup Day a National Public Holiday. After receiving no response from Malcolm Turnbull last year, 'Brownny' went about delivering a message to the Queen. Set in the fictitious 'Brownton Abbey,' the video, like last year's, was created to be a humorous piece modelled loosely on the Queen's annual Christmas message. The activities performed in the video were intended to be synonymous with those that may take place in similar settings.

Comments in relation to the complaint

Complaint received on 01 Nov 2016

The confidential complaint states that the complainant viewed the advertisement via the SBS Facebook page on 01 Nov 2016.

The complainant's description of the ad was:

'This "spoof" advertisement is framed as a message to the Queen. It is a "spoof" of British colonial India, replicating British upperclass life and practices such as skeet shooting,

fencing, archery - all in a mansion setting. In each shot is a small person of colour dressed as a jockey. This "servant" is shown in a range of subservient and humiliating scenarios including getting shot by an arrow. In some scenes the "servant" seems in fear.'

The complainant's reason for concern was:

"There is no doubt that this is a stereotypical and racist portrayal of Indians as servants, lackeys and even as property to be treated with disdain, arrogance and violence. This advertisement attempts to replicate scenes which show the oppression and mistreatment of Indians in an attempt to be humorous in order to sell the gambling industry. It is offensive along race lines."

There are two components to this complaint:

(a) The first component of the complaint is that in the complainant's mind "There is no doubt that this is a stereotypical and racist portrayal of Indians as servants, lackeys and even as property to be treated with disdain, arrogance and violence." UBET's response is as follows:

(i) The 'jockey' character cast for the role in the video in question was first utilised in the 2015 #UBETWECAN campaign and his involvement in the 2016 #UBETWECAN 2.0 campaign was based on the popularity of the character in the first campaign. Fuad, who plays 'Jockey' was a very popular and recognisable character in the first UBETWECAN video, and the decision was made to re-cast him in the second video to ensure people made the link between the two.

(ii) In the first UBETWECAN Social Video in 2015, there were two Jockeys cast. The Jockey role was a non-speaking role and the talent were cast from headshots (attached) that confirmed that they were the right height for a Jockey role. The decision to feature Fuad over Dean was made on the day and based on the actors performances. At no stage was race used as a base for making the decision on casting the role. The setting depicted in #UBETWECAN 2.0 was entirely based on the fact that it was a message to the Queen, looking to replicate a typical British Royal setting with the additional of blatantly obvious humour of a satirical nature. Fuad's popularity in the first campaign made him the obvious choice to be involved once again.

(iii) The following talent brief and visual reference (attached) were supplied to casting agents for the initial casting for UBETWECAN 2015.

The Jockey - Brownny's best known for his footy, but he also doesn't mind a punt on the ponies, particularly during Spring racing. So in his travels, he's made plenty of friends in the industry, including his silent jockey mate. A man of few words, our jockey believes all Aussies deserve the day off too for Melbourne Cup, everyone except jockeys that is. So he's happiest when he's helping Brownny work the technology he needs to get the message out.

(b) The second component of the complaint is that "This advertisement attempts to replicate scenes which show the oppression and mistreatment of Indians in an attempt to be humorous in order to sell the gambling industry. It is offensive along race lines." UBET's response is as follows:

(i) No attempt was made during the advertisement to replicate scenes specific to the

mistreatment of Indians. Throughout the advertisement, there was no mention, scripted or visually depicted, which insinuates that the character 'Jockey' was in fact of Indian descent. The casting of the role 'Jockey' as previously stated, was purely performance based. The relationship between 'Jockey' and 'Brownny' did not differ between the 2015 and 2016 campaigns. The 'Brownton Abbey' setting in the 2016 campaign was based on the context of the recipient of the message, the Queen. The English theme portrayed in the advertisement reflects 'Brownny' emulating the Queen's lifestyle in a contemporary setting where many upper class Brits still enjoy partaking in activities such as fencing, croquet and clay shooting. Any parallels drawn between that setting and racist depictions of Indians are purely circumstantial. This is evidenced by the jockey playing Pokemon Go on his phone during the commercial, as well as the use of an Ipad to depict last year's advertisement. The fact a football is released in place of a clay target in the opening scene indicates from the very start of the advertisement that it is tongue in cheek.

(ii) There was also no attempt during the advertisement to 'sell the gambling industry.' The campaign was aimed at driving awareness of the UBET brand by posing the question 'Can we get a public holiday on Melbourne Cup Day in every state?' This was answered with #UBETWECAN as a means of promoting the UBET brand during the Spring Carnival.

Complaint received on 31 October 2016

The complaint states that the complainant viewed the advertisement on 31 October 2016. The complainant's reason for concern was:

"I was offended by the racist overtones in Brownie's disrespect, disregard and blatant racial segregation and denigration in relationship to his brown skinned "jockey/servant" who was portrayed as stupid, idiotic, worthless, voiceless and frankly as an object who could be toyed with, messed with, disregarded and ultimately disrespected. This portrayal of white monarchy and supremacy goes against the very grain of multi-culturalism in this country. I was appalled and disgusted. I understand it was supposed to be in the realm of "comedy" and tongue in cheek; however it lands really badly out here."

(a) In reference to this complaint, UBET's response is as follows:

(i) The tone used by 'Brownny' in addressing the character 'Jockey' is consistent between the 2015 and 2016 campaigns. Their relationship is quite obviously of a fictitious nature and bears no resemblance to any typical relationship. There was no disrespect, disregard, segregation or denigration based on race in either video. The appearance and ethnicity of 'Jockey' had no bearing on the role or the script in either campaign.

(ii) As previously stated, the portrayal of the British monarchy in this video was purely based on the recipient of the message, the Queen.

Requirements of Section 2 of the AANA Code of Ethics

UBET does not agree that the advertisement breaches section 2 of the Code. We make the following comments about the specific parts of section 2 below:

Code section 2.1 – Discrimination or vilification

(i) Throughout the advertisement, there is no attention drawn, verbally or visually to any characters race, religion or nationality.

(ii) During the 2015 #UBETWECAN campaign, there were no complaints received in regards to the relationship between 'Brownny' and 'Jockey' being of discriminative, exploitative or degrading nature. The 2016 campaign depicts an identical relationship between the two characters.

Code section 2.2 – Exploitative and degrading

(i) During the 2015 #UBETWECAN campaign, there were no complaints received in regards to the relationship between 'Brownny' and 'Jockey' being of discriminative, exploitative or degrading nature. The 2016 campaign depicts an identical relationship between the two characters.

Code section 2.3 – Violence

(i) The extent of perceived violence included in the advertisement is quite clearly fictitious in nature and is purely designed to humour the audience.

(ii) The section of the advertisement where it is implied that 'Jockey' is struck in the helmet by an arrow shot from a crossbow is no different to the section in which 'Brownny' is struck in the chest whilst fencing.

Code section 2.4 – Sex, sexuality or nudity

The advertisement does not contain any sexualised imagery or commentary.

Code section 2.5 – Language

The advertisement does not contain any inappropriate language.

Code section 2.6 – Health and safety

The advertisement does not contain any content which poses a threat to the health and safety of the cast or audience.

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 discriminated against people with an Indian background by showing the Indian character as a servant who is treated poorly.

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 this internet advertisement features AFL player Jonathan Brown (Brownny) sending a message to the Queen asking her to make Melbourne Cup Day a national public holiday. The advertisement is styled to look like Downton Abbey, and Brownny is waited upon by a dark-skinned jockey. In various scenes the jockey fires clay pigeons for Brownny to aim the football at, serves tea, holds up a frame to replay a part of last year's ad, is narrowly missed by a croquet ball hit by Brownny, sits in a steam room, holds a football on his head for Brownny to fire an arrow at and is told off by Brownny for trying to get biscuits out of a jar. In the final scene the jockey is relaxing in an armchair eating the biscuits.

The Board noted the element of humour in the advertisement and the British colonial theme to the advertisement. The Board noted that the advertisement does clearly suggest that the jockey character is a servant and considered that in the historical context the race of the jockey does reflect historical servitude and colonialism.

The Board noted the advertiser's response that it was not intending to be racist and that the jockey character was in the last advertisement of a similar vein.

The Board considered the advertisement was a depiction of British colonialism and considered the use of a jockey who appeared of Indian descent may be reflective of history. The minority of the Board felt that this reflection of history was showing that times have changed and that this behaviour is no longer acceptable.

A minority of the Board considered that the race of the jockey was not relevant to the advertisement, and that the subservient nature of the jockey was reflective of the royal theme and that the advertisement did not suggest that the jockey was discriminated against or vilified because of his race.

The majority of the Board considered that there was no clear message in the advertisement that this behaviour is unacceptable and that the treatment of the jockey in the advertisement was unfair and unequal.

The Board considered the scenes where the jockey was shown in a subservient manner. The majority of the Board noted that the character had no voice in the advertisement, was treated poorly by the main character and that the only scene which showed the jockey acting relaxed and happy was when he was alone. The majority of the Board considered that the jockey was not empowered and that he was not depicted as an equal to the other character.

The majority of the Board in particular noted the scenes where the jockey is almost hit by a croquet ball and shot with an arrow and considered that these scenes showed that the jockey is shown less-favourable treatment and that his life is expendable.

The majority of the Board acknowledged that the tone of the advertisement was humorous, however considered that while the scenarios are unrealistic they are based on historical values which are no longer acceptable in the community. The majority of the Board considered that the humour in the advertisement did not lessen the negative treatment of the jockey or suggest that this behaviour was not acceptable.

Noting the difference in power shown between the main character and the darker-skinned jockey, the fact that the jockey's life was seen to be expendable and that the jockey is not given a voice in the advertisement the majority of the Board felt that the advertisement did 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 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 noted the scene where Brownny shoots an arrow towards a football on the jockey's head, missing and hitting him in the helmet.

A minority of the Board expressed concern that this was an unsafe behaviour and felt that more care should be shown around the safe use of archery equipment.

The majority of the Board considered that the consequences of the action are clearly shown, with an arrow protruding from the jockey's helmet for the remainder of the advertisement and the jockey was not hurt or in any pain.

The majority of the Board considered that people with access to archery equipment were likely to be aware of safety requirements and were unlikely to copy the behaviour shown.

The majority of the Board also noted the tongue-in-cheek tone of the advertisement, and considered that the unsafe behaviour is unlikely to be copied.

The Board considered that the advertisement did not depict material 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 breached Section 2.1 of the Code the Board upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

I refer to your letter dated 14 December 2016 advising UBET of the Advertising Standards Board's (ASB) decision in response to the complaints received in regards to a recent social media video advertisement by UBET (#UBETWECAN 2.0).

I note the ASB's determination that the #UBETWECAN 2.0 advertisement breached section 2.1 of the AANA Code of Ethics – Discrimination or Vilification.

While UBET does not agree with the determination made by ASB, we acknowledge the Board's decision in this case and as such the #UBETWECAN 2.0 advertisement has now been removed from UBET's YouTube and social media channels.

