



Case Report

1	Case Number	0545/16
2	Advertiser	Aldi Australia
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	07/12/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

2.3 - Violence Cruelty to animals

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens with a close-up of a man's hands trying to pop the cork off a bottle of ALDI Monsigny Premier Cru Champagne on Christmas day. A group of carollers are seen singing (to the tune of Rest Ye Merry Gentlemen):

There's only one beverage to celebrate Christmas Day.
But remember when you open it to point the cork away.

The man pops the cork off the champagne, and it flies towards the sky. Shortly after, a "bird" falls from the sky.

THE COMPLAINT

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

Its disgusting that it seems to say the cork killed the native bird

THE ADVERTISER'S RESPONSE

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

The complaint that we are responding to states that the advertisement is in breach of s 2.3 of the AANA Code of Ethics (the Code) on the ground that it depicts violence (cruelty to animals). The complainant states that "It's disgusting that it seems to say the cork killed the native bird".

For the reasons set out below, ALDI considers that the advertisement complies fully with the Code.

Firstly, the prohibition in s 2.3 of the Code is with respect to portrayals of violence; ie behaviour involving physical force intended to hurt, damage, or kill someone or something. No reasonable viewer would understand the advertisement as portraying an intentional act of harm. On the contrary, it is clear from the context that the man popping the cork had no idea that the cork had hit a bird until the bird falls from sky.

Secondly, no reasonable viewer would understand the advertisement as literally depicting a cork killing a bird, whether intentionally or otherwise. It is clear from the humorous context that "bird" that falls from the sky is a stuffed animal, and not an actual bird. ALDI can confirm that this was in fact the case.

ALDI considers that applying prevailing Australian community standards, the advertisement cannot be said to be in breach of s 2.3 of the Code, or of any other part of Section 2 of the Code.

For the sake of completeness, we have also considered the AANA Food and Beverages: Advertising and Marketing Communications Code, and consider that the advertisement also complies fully with this code.

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 concern that the advertisement suggests a cork from a bottle has killed a native bird.

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

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board noted that this television advertisement features a man opening a bottle of fizzy wine followed by a bird falling to the ground while a choir next to him sing a warning about pointing the cork away.

The Board noted it had previously dismissed complaints about a man mistaking a seagull for a ball and hitting it in case 0534/14 where:

“The Board noted the complainants’ concerns that that hitting a seagull is a depiction of animal cruelty. The Board noted that the man does appear to hit the seagull hard but considered that most members of the community would recognise that it was a CGI creation and not a real bird. The Board considered that the bird does not appear to be harmed by the man’s actions as it shakes itself off and then gets its revenge by going to the toilet on his shoulder. The Board noted that the theme of the advertisement is in keeping with this advertiser’s previous advertisements where it shows people making errors because they are not wearing the appropriate visual aids and considered that in this instance the focus on a man mistaking a bird for a ball is unlikely to be considered to condone or encourage violence against seagulls or any other animal by most members of the community and is a situation most likely to be considered unlikely and humorous.”

The Board noted in the current advertisement that while there is a strong suggestion that a cork from a bottle has hit a bird the Board considered that we do not actually see the cork hit the bird: it is implied. The Board noted the advertiser’s response that the bird is a stuffed animal and not an actual bird and considered that most reasonable members of the community would recognise that the bird is not real. The Board noted that the scene is accompanied by a warning and considered that there is no suggestion that the man intended to harm a bird with his actions. The Board considered that in the context of a warning in the advertisement about carefully opening a bottle, the suggestion of a cork accidentally hitting a (fake) bird does not depict, encourage or condone violence towards animals.

The Board determined that the advertisement did not breach Section 2.3 of the Code.

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