



Case Report

1	Case Number	0556/16
2	Advertiser	Members Own Health Funds Ltd
3	Product	Insurance
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	18/01/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Occupation
- 2.3 - Violence Bullying

DESCRIPTION OF THE ADVERTISEMENT

There are three versions of this television advertisement.

Advertisement 1: We watch as a woman at a bus stop after work is on her iPhone trying to negotiate her way through a call with her health insurer. We watch as her frustration builds and builds as she tries to make sense of what her fund is saying on the other end. Throughout her performance we'd see her body language express a great mix of tension, annoyance and irritation. We cut between her different verbal pleas to them:

“Yes but...”, “But I thought my extras covered that” “why can't I claim...”

She then hangs up the phone and yells, ”AHHHH” into the speaker. To further express her frustration, she says “CLICK!” (to imitate the noise of hanging up again) and then imitates the sound of a disconnected phone line “beep beep beep beep”. She then presses the hang up button again once more for good measure. A person nearby gives her a supportive “WHOO!” as they've caught the end of her conversation.

Advertisement 2:

It's morning at work and a man sits at his desk in a corporate environment. He's on the phone to his health insurance company and chatting away in what seems a polite manner – at least he 'tries' to be verbally. His facial and body reactions tell a completely different story. We can only hear his side of the conversation as his body tenses and thrashes, he punches the air

– and silently screams out in growing frustration.

“Yep”, “Yep”, “I’ve had health insurance with you for ages”, “Yep”, “Ok bye”

After the man says bye and hangs up the phone, he picks it up again and bangs it down multiple times whilst saying “bye, bye, bye, bye, bye” in frustration.

Advertisement 3:

This version is edited together takes from the previous 2 advertisements: we see the man from the second advertisement holding his head in one hand and the phone to his ear in the other hand saying “Oh”. This is followed by the woman from the first advertisement standing at the bus stop and saying “My”. We then cut to our brand voice over:

“Gosh! It’d be nice to hang up happy from your health fund, wouldn’t it? So join a health insurance fund with the members own symbol. Compare our funds at members own dot com dot au and join a fund that makes you happy.:

THE COMPLAINT

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

The TV ad for "Members Own Health Fund" displays people being violent to workers over the phone. Yelling, banging the phone into the table, etc and I feel this is trivialising and encouraging violence to workers who have to answer phone calls e.g. Centrelink workers.

THE ADVERTISER’S RESPONSE

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

Members Own does not condone any sort of violence, discrimination or vilification against any person or groups of people. We have reviewed each of the advertisements against Section 2 of the AANA Advertiser Code of Ethics and do not believe that we are in breach of any of the codes.

Codes relating to complaint

2.1 – Discrimination or vilification

2.3 – Violence/Bullying

Advertisement 1 – Attachment name: Advertisement 1

This advertisement depicts a common customer scenario where they can’t claim for a service they believed to be covered for. During the conversation, the woman featured remains calm but annoyed at the lack of service from her current health fund. Once the conversation has finished she then vents her frustration by yelling into the phone. At no stage during or after this conversation was she discriminating, vilifying or bullying the person she was talking to, she vented her frustrations. When assessing this against your codes we don’t feel it has

breached either.

Advertisement 2 – Attachment name: Advertisement 2

This advertisement depicts a male customer with the same scenario as Advertisement 1. Throughout the conversation the male customer remains calm to the person he is talking to. During the conversation, he punches the air in a frustrated manner, the phone consultant would have no idea what he was doing. After hanging up his phone he then bangs the headset down on the multiple times phone. We believe this action to be a justifiable way of showing his frustration and not in breach or any of your codes.

Advertisement 3 – Attachment name: Advertisement 3

This advertisement is a combination of the first two advertisements, again we don't believe this to have breached any of your codes for the same reasons same above.

We regret that these advertisements have caused distress to a viewer or made them feel that we condone violence/abuse against call centre workers. Our intention was not to encourage abuse against call centre workers, especially since we have our own call centre and have our own codes and guidelines to ensure they have a safe workplace. We were merely trying to demonstrate the positive experiences that customers would have if they spoke to our call centre staff and show that they can 'hang up happy' with us and do not need to be frustrated. As these ads have been running for quite some time now and this is the first complaint about them, we believe that the vast majority of people that have viewed them don't feel they are in any way inappropriate for television. Prior to airing these advertisements, we also underwent independent ad testing with Empirica to examine people's reactions to them. The overwhelming response was "People aren't offended by them – on the contrary, they sympathise with the situation, can relate to the frustration, and most importantly clearly understand that the ads are saying that MOHF provides a different experience." You can find the full report in the attached files.

Further to this, we also sought legal advice from our legal team at DLA Piper before the ads were aired. They did not raise any issues about the tone of the ad or potential breach of Code of Ethics. We have taken every precaution to ensure that our ads have been compliant and suitable for all audiences. To review the correspondence with DLA Piper, please see the attached files.

Codes not relating complaint

2.2 – Exploitative and degrading

Based on the definitions from your website there is no breach of this code. These advertisements do not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

2.4 – Sex, sexuality and nudity

There is no imagery or scripting in these advertisements that contains humour, sexual innuendo, nudity, suggestive phrases/acts or sexualisation of children that would breach this code.

2.5 – Language

These advertisements contain no imagery or scripting that breach this code. Based on the definition from your website there is no use of obscene, obscured, religious terms/expressions, innuendo or sexual reference in these advertisements. Appropriate language has been used for the relevant audience and medium and strong or obscene language has been avoided.

2.6 – Health and Safety

The complaint raised does indicate that the viewer was concerned about workplace bullying which from your website does fall into this code as well. Please refer to our previous responses to 2.3 as reference for our response to 2.6.

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 features people being violent to workers over the phone and this trivialises and encourages violence towards people who work in call centre type environments.

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 there are three versions of this television advertisement: the first shows a woman becoming frustrated as she negotiates a call with her health insurer, the second shows a man experiencing similar problems with his health insurer, and the third version is an edited version featuring content from the first and second versions.

The Board noted that the focus of the advertisement is the service provided by different health insurers and considered that there is no suggestion that the people who work for health insurers, or in any type of call centre environment, should be thought less of or treated badly because of the type of job they do.

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 occupation and determined that the advertisement did not breach Section 2.1 of the Code.

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 the complainant’s concern that the advertisement depicts people being violent over the phone. The Board noted that in each scenario depicted, the person calling their health insurer is polite, albeit frustrated, with the person they are speaking with on the phone and only show their anger when trying to navigate the automated process of the call and/or after the call has been terminated. The Board noted that we do not see who the callers are talking to and considered that based on their behaviour whilst on the phone there is no suggestion of violence towards the person they are talking to and in the Board’s view the anger they demonstrate is clearly directed at the health insurance company and not the call

centre member of staff and appears to be after the call is terminated.

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.