



Case Report

1	Case Number	0587/17
2	Advertiser	Australian Human Rights Commission
3	Product	Community Awareness
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	24/01/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Ethnicity

DESCRIPTION OF THE ADVERTISEMENT

The television advertisement features a man exit the building and look for a taxi. He notices another man waiting and asks the other man if he's been waiting long, the man nods. A taxi stopped for the first man who indicates that the other man has been waiting longer. The taxi driver looks at the other man, who has darker skin, and says to the first man that it's OK, he would take him instead. The man says it's not okay and the taxi drives off. The words 'Racism, it stops with me' appear on screen.

THE COMPLAINT

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

There are a million different scenarios they could have used without calling out any particular industry or group of people and creating perception about them that is completely in inaccurate and unfair . I find it ironic that they are infact causing discrimination and racism against one group by trying to solve the issue for another group.

Please take my plea to have this ad remove as soon as possible We don't need this kind of behaviour replicated against hard working Australian tax paying citizens that service our community .

Thank you kindly

THE ADVERTISER'S RESPONSE

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

The subject matter of this complaint is a community service announcement. It was broadcast from 5 October 2017 to 5 December 2017 on ABC and SBS. The announcement was also provided to commercial television stations but the Commission is not aware of whether or not it was broadcast by those stations. The Commission has no plans to broadcast the announcement on television again.

The community service announcement was broadcast as part of the 'Racism. It Stops with Me' campaign. A copy of the announcement is available on the Commission's website at <http://itstopswithme.humanrights.gov.au/who-we-are/videos>.

The purpose of the 'Racism. It Stops with Me' campaign is to raise awareness of racism in the Australian community, and to invite all Australians to reflect on what they can do to counter racism when they encounter it.

The community service announcement is intended to depict, and does depict, one example of a realistic situation in which racist conduct may occur. It also depicts an example of an appropriate bystander response. To achieve that objective, it was necessary to depict a concrete scenario. The fact that a particular scenario was chosen cannot support an inference that it is the only, or most common, scenario in which racist conduct occurs. Racism, unfortunately, still occurs in many, if not all, aspects of public life.

You have identified section 2.1 of the AANA Advertiser Code of Ethics as being potentially relevant to this complaint. That section provides that:

'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.'

In particular, you have suggested that the announcement may engage the prohibition against discrimination or vilification on the basis of ethnicity.

The complaint alleges that the community service announcement is 'a completely inaccurate depiction' of people in the taxi industry and that it 'only encourages vilification against Australia's poor taxi industry'. It seems clear that the complainant is concerned about the portrayal of the taxi driver. However, it does not appear that the complainant suggests that the announcement involves discrimination or vilification of the taxi driver on the basis of his ethnicity. Rather, it appears that the complainant is concerned that a taxi driver has been depicted in a scenario where he has refused to pick up a potential customer because of the customer's race or ethnicity. The complainant is concerned that this portrays the taxi driver in a bad light.

In the announcement the identity of the taxi driver is obscured. It is not possible to identify his ethnicity and his accent is a neutral Australian accent. It could not be reasonably suggested that the way in which the taxi driver is depicted is contrary to section 2.1 of the Code. Nor do we consider that any of the other aspects of section 2 of the Code are relevant.

More generally, while the community service announcement depicts racial discrimination in a setting involving a taxi, on a fair viewing it does not represent that such conduct is commonplace. It says nothing about the incidence of racism in the taxi industry compared with other industries; and it says nothing to suggest the taxi industry allows or permits such behaviour. This conclusion is strengthened by the fact that the community service announcement is one of two community service announcements which were run as part of the same advertising campaign. The second community service announcement also depicts an example of racism, in a situation that has nothing to do with the taxi industry.

Unfortunately, there have been instances when taxi drivers have declined fares from Aboriginal and Torres Strait Islander people. A number of incidents involving high-profile members of those communities have been the subject of national media coverage. Some examples of that coverage may be found at:

- https://www.buzzfeed.com/allanclarke/indigenous-actor-refused-a-taxi-four-times?utm_term=.kxbv0geXw#.hkXm7ldx5
- <http://www.smh.com.au/entertainment/theatre/indigenous-actor-jack-charles-accuses-taxi-driver-of-racist-refusal-20131203-2yotv.html>
- <http://www.bbc.com/news/world-australia-34674173>
- <https://www.sbs.com.au/nitv/the-point-with-stan-grant/article/2016/04/14/jack-charles-seething-anger-after-again-being-refused-taxi-melbourne>
- <http://www.smh.com.au/entertainment/music/racist-taxi-driver-refused-singer-manager-20121205-2aucj.html>
- <http://www.smh.com.au/entertainment/theatre/taxi-drivers-bar-aboriginal-actors-20130501-2iu42.html>
- https://www.buzzfeed.com/allanclarke/this-indigenous-actor-wants-to-end-racial-profiling-in-the-t?utm_term=.hdjlAZR37#.qmPROVGgr

A number of instances have also been informally reported to the Commission in the course of its work.

When placed in this context, the community service announcement does not contain an unrealistic or fanciful depiction of racist conduct, and features an appropriate subject matter.

We note that a number of taxi associations and companies are supporters of the ‘Racism. It Stops with Me’ campaign. Prior to broadcasting the community service announcement we briefed the Victorian Taxi Association they raised no concerns with it. The Commission has also engaged constructively with the New South Wales Taxi Council in relation to discrimination in the taxi industry over a number of years.

The Commission acknowledges that taxi drivers also regularly experience discrimination in the course of their work and we share the concern of the complainant about these instances of discrimination. We do not accept that the community service announcement will increase instances of that discrimination (including vilification).

When discrimination does occur, the Commission encourages recipients and bystanders to say something where this is safe to do so. People who are subject to racial discrimination or vilification may also make a complaint to the Australian Human Rights Commission.

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 discriminates a group of people unfairly. 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 the Practice Note to Section 2.1 of the Code which provides the following definitions:

“Discrimination – unfair or less favourable treatment

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule”. The Board noted the advertisement featured a taxi driver who appeared to refuse to pick someone up based on their race. The Board noted the complainant’s concerns that the advertisement discriminates against taxi drivers by suggesting that they are racist. The Board noted that occupation is not a category under Section 2.1 of the Code and therefore could not be considered. The Board then considered whether the advertisement discriminated or vilified the taxi driver on account of ethnicity.

The Board noted the advertiser’s response which stated that the identity of the driver is obscured and it is not possible to determine his ethnicity.

The Board considered that the advertisement was depicting a positive message around racism by depicting an everyday scenario where someone calls out racism. The Board considered in order to depict this scenario someone needed to appear to be acting in a racist manner. The Board considered in this scenario the taxi driver’s identity was obscured and it is not possible to determine his ethnicity.

The Board considered this depiction did not cause a person or group of people to be discriminated against or vilified on account of ethnicity.

Finding that the advertisement did not breach section 2.1 of the Code or any other grounds, the Board dismissed the complaint.

