



CASE REPORT

1. Complaint reference number	113/08
2. Advertiser	Skins Compression Garments Pty Ltd (Beyond Reason)
3. Product	Clothing
4. Type of advertisement	TV
5. Nature of complaint	Discrimination or vilification Race – section 2.1
6. Date of determination	Wednesday, 9 April 2008
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for competitive sportswear features male and female African-American athletes engaged in various sporting activities, including football, athletics, basketball, and boxing. Throughout the advertisement the athletes explain "We're faster, we got more skill, we got the stamina...You know, when it comes to the physicality of the sport the African-Americans have the advantage. It just comes natural to us...I mean you gotta look back at our ancestry, we were born warriors. It's natural instinct. It's like a killer mentality. If you look at the way a black male is built we're more muscular, we're stronger...You wanna be like us?" As the sound of laughter is heard the Skins logo appears on screen with the words "Beyond Reason. Skins.net."

THE COMPLAINT

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

Ad portrayed Africans as being superior in contact sports because they "Once were Warriors" and if white people wanted to compete they needed to have this product. The statement they were born to do something is incorrect ie: in the "genes".

It is in my opinion offensive and to a degree - racist. It implies that other races apart from negro americans are physically inferior.

I object to this advertisement because I find it extremely and overtly racist. African Americans as a race shouldn't have to feel that their only contribution to society is playing sports well. Also people that aren't African American shouldn't be made to feel that because they aren't African American that they are inferior at sports. To put this into perspective I have the following hypothetical advertisements. The first an ad with some Mexicans talking about how they, as a race are the best at cleaning and because they have small hands they can get into all the nooks and crannies. There is nothing wrong with cleaning as a trade, but I ask if you think the Mexican community would be happy with that portrayal? The second ad, an ad full of businessmen of Caucasian appearance. They talk about how their race is the smartest because their ancestors created great wealth and all other races live in poverty. I believe non-Caucasians would find this offensive. The statement that Caucasians are smart because they are Caucasian and that Mexicans are good at cleaning because they are Mexican is completely absurd. I also believe that African Americans aren't good at sport because of their race and there would be no scientific evidence to support such a claim.

Even though the ad attempts to infer that by wearing 'black skins' (the advertised product) one will perform better at sports, the ad is deliberately using race and generalised statements to stir racially motivated controversy. I think that this ad breaches the code in its racially divisive comments.

This commercial is extremely racist and offensive.

I find it a little hard to believe that a commercial like this could actually be made in a world that actively tries to stamp out racial intolerance. Try to imagine if this commercial was made with Caucasian, or Asian people proclaiming to be superior? Could you imagine the controversy?

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

From the above we assume that those complaints will be heard under Section 2.1 of the AANA Code of Ethics relating to "Advertisements 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..." We refute this for the following reasons:

- West African (African American, Caribbean etc) bodies are equipped with more than the average fast-twitch fibres producing explosive bursts of energy. Slow-twitch fibres are more common to Kenyan and East African groups, allowing them to sustain muscle effort over long periods of time, as in long distance running. 47 of the top 100 marathon runners in 1999 were Kenyan.*
- Compared with their white counterparts, West Africans possess less body fat, a higher centre of gravity, narrower hips, higher testosterone and bigger muscles, including a larger chest. Kenyans have a slighter body profile, relatively longer legs, larger lung capacities and possess more energy producing enzymes in their muscles which are better able to use oxygen.*
- People of West African ancestry hold more than 95% of the top times in sprinting. All 32 finalists in the last four Olympic men's 100-meter races were of West African decent.*
- Black athletes make up more than 80% of American professional basketball players, 67% of American footballers, yet only 13% of the population is black. Similarly in England, which has a black population of less than 2%, 1 in 5 professional soccer players are black.*

In broad terms, we wanted to demonstrate how the Skins™ product (see Addendum #2) has changed the way athletes prepare, perform and recover. Our primary message was to celebrate the achievements of the world's best athletes. The brief for this television advertisement therefore was:

- To celebrate significant athletic success and bring to life some of the facts documented in Addendum #1*
- To demonstrate sporting achievements and show how they can transcend social, cultural and political environments*
- To allow athletes the opportunity to explain why they excel at sport in their own words (i.e. unscripted)*
- To present this to a target audience that loves sport*

While the advertisement is challenging and will spark discussion and consideration, it was never intended to offend.

(An) attached document references a significant number of studies, research papers and statistics relating to the superior athletic performance of black athletes. These studies highlight the fact that the unscripted comments contained in the advertisement have been made with reason, consideration and adherence to proven scientific and physiological research.

As we have previously stated, the Skins™ Beyond Reason' advertisement is challenging and will spark discussion and consideration, and was never intended to offend. It recognises and celebrates the accomplishments of black athletes throughout the world. From a marketing viewpoint, we are encouraging consumers to put themselves in the best possible position to emulate these achievements.

We believe that this mix of marketing and social objectives has delivered a compelling and interesting TV commercial. If it pricks the conscience of consumers and makes them think about broader social issues, we believe this is an added benefit that should encourage us to deliver the advertisement to as wide an audience as possible as opposed to hiding the facts outlined in the

nine pages of substantiation.

For all the reasons outlined in this letter, but more particularly the substantiation in (the) Addendum, we submit that these complaints should not be upheld.

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 concerns of the complainants and reviewed the advertisement under Section 2.1 of the Code which deals with discrimination.

The Board viewed the television advertisement and noted the use of athlete testimonials.

The Board noted the claims made by the athletes that black men are stronger and faster than any other athletes.

The Board considered that through these claims the sportsmen were exulting in their heritage and engaging in self-promotion.

The Board further considered that the claims could also be seen as promoting racial superiority but agreed that in this context the claims were part of a broader positive statement about athletic ability.

The Board determined that while the advertisement did not breach section 2.1 of the Code it did introduce concepts along racial lines that were not necessary to promote the product being advertised.

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