



CASE REPORT

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| 1. Complaint reference number | 128/08 |
| 2. Advertiser | Telstra Corporation Ltd |
| 3. Product | Telecommunications |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3
Other - Social values |
| 6. Date of determination | Monday, 19 May 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

The television advertisement shows various scenes throughout the day of a professional man using a Telstra phone/laptop combined to manage his business.

The music playing in the background is from the film 'Midnight Cowboy' but the lyrics have been changed to relate to his telecommunication products. "Everybody's talking at me, I hear every word they're saying. With my phone and laptop combined. People conference call me, I can see their faces. Send them files any time. I'm going home when the sun's still shining. Emailing from the train. Turbo Card and Next IP on the go. Work's all done, my wife just grinned. Kid's tucked up in bed. How'd I ever do business without it?"

The advertisement begins with the man walking away from his house, then at work with his colleagues conference calling, at work on a building site on his mobile phone, he is then seen walking through the busy city streets with his son, dressed as a cowboy, sitting on his shoulders. The father and son are next sitting on the train with the father working on his laptop and the son playing with an electronic game. They are seen arriving home and waving to the wife/mother who is preparing the evening meal. In the final scene the son is in bed and the couple are sitting around the dining table. As the song finishes with 'how'd I ever do business without it?' a Telstra logo and website address are shown.

THE COMPLAINT

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

In the film Midnight Cowboy, the character Joe Buck (played by Jon Voight) is a male prostitute who dresses as a Cowboy to attract customers. With this in mind, the Telstra ad shows a scene where the father is walking through city streets with his son sitting on his shoulders, above the crowd. The son is dressed as a Cowboy. I don't think it is spurious, that at some conscious or sub-conscious level, an association between the images of the boy and the content of the film could be made in the viewer's mind. The iconic images of Midnight Cowboy are of John Voight prostituting himself on New York Streets to the very same song as in the Telstra Ad. I am not saying Telstra are deliberately trying to allude to child prostitution, I just think that someone from Telstra or the Advertising Agency would have been informed enough to see that this was, at the very best, in very poor taste and potentially offensive and disturbing.

THE ADVERTISER'S RESPONSE

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

Telstra and its advertising agency Belgiovane Williams Mackay, do not consider the advertisement has breached the AANA Advertiser Code of Ethics, section 2.3 and believe that it complies with

that section to "treat sex, sexuality and nudity with sensitivity to the relevant audience".

The song ('Everybody's Talkin', originally written and performed by Harry Nilsson) was chosen for its recognisable lyrics which have an immediate affinity with telecommunication products (i.e. "Everybody's talking at me") and the need for business people to attain work-life balance (i.e. "I'm going home when the sun's still shining"). Other lyrics within the song were altered to reinforce the relevance to Telstra's business products and the script (lyrics) is attached as reference.

Telstra is keenly aware of its social responsibilities and is committed to the maintenance of its advertising standards. Advertisements are regularly and diligently tested in research groups before production and broadcast to ensure that any misinterpretations or risks of causing unintentional offence are screened, eliminated and/or minimised before delivering the final advertisement to the marketplace.

At no point during testing for this advertisement was concern or offence established within the groups regarding the use of the music, its link with the movie's adult themes, the scene where the father picks up his son from school or with the wardrobe that the son is wearing.

Although the original Harry Nilsson song was used in the film 'Midnight Cowboy', which deals with adult themes, there was no intention by Telstra or its advertising agency to draw comparisons between the themes or content of the film and Telstra, its products or the characters portrayed in the advertisement.

For these reasons we maintain that the advertisement does not treat sex, sexuality and nudity insensitively and does not breach the AANA Code of Ethics.

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 complainant and considered the advertisement under Section 2.3 of the Code which deals with the portrayal of sex, sexuality and nudity.

The Board viewed the television commercial and found it to be sweet and whimsical.

The Board acknowledged that the song used had originally appeared in the movie *Midnight Cowboy* but felt that most reasonable adults would not see a link between child prostitution and a child enjoying a shoulder ride, as portrayed in the advertisement.

The Board further considered that children often dress as cowboys or cowgirls and that this was an acceptable outfit for the boy to be wearing.

The Board agreed that the context of the movie was so far removed from the advertisement's imagery that it could not be considered to breach Section 2.3 of the Code.

The Board further noted that the lyrics of the song had been changed to match the activities shown within the advertisement and that there was no inappropriate language used at anytime.

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