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CASE REPORT

1. Complaint reference number 275/08

2. Advertiser **Emirates Australia**

3. Product Travel 4. Type of advertisement Outdoor

5. Nature of complaint Health and safety – section 2.6 6. Date of determination Wednesday, 13 August 2008 7. DETERMINATION Upheld – discontinued or modified

DESCRIPTION OF THE ADVERTISEMENT

This outdoor advertisement depicts a man riding a bicycle on a street. As a pillion passenger he carries a woman sitting "sidesaddle". She is wearing a red dress, holding a baguette in her hand, and laughing. Text on the advertisement reads "The world is your playground. Enjoy our award-winning service, all flight long. Fly Emirates. Keep discovering." and A multilingual cabin crew from over 100 nations, gourmet meals served with wines to match and more than 600 channels of in flight entertainment. We go out of our way to pamper you so all you have to do when you arrive is enjoy yourself.

THE COMPLAINT

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

The woman pictured on the rear of the bicycle was not wearing a helmet. Although the presence of the baguette suggests the location is France where helmets may not be required, to a younger audience this may not be obvious. It encourages the unsafe practice of cycling without appropriate head protection as required by Australian law. This in conjunction with the hazardous manner in which she is perched sends the message to its viewers that reckless behaviour with a total disregard for safety is endorsed by Emirates, and something which the viewers of the advert should aspire to. I find this unacceptable.

THE ADVERTISER'S RESPONSE

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

We have carefully considered the complaint received by us and strongly disagree with the complaint and argument put forward by the complainant.

While we respect the right of the individual to hold their view, we believe that this complaint does not accurately or fairly represent the content or tone of the advertisement.

'Woman on Bicycle' was one of three creative executions that formed Emirates' recent campaign 'The world is your playground'. We have attached the two other executions as electronic files. You will see that all three creative executions depict scenes and situations that are clearly located in foreign destinations. The sole objective of the campaign was to communicate that Emirates' airline service means you can arrive at your destination feeling refreshed, invigorated, and ready to enjoy the experience to the utmost – rather than feeling travel weary and fatigued.

This campaign ran for three months (5 May – 27 July 2008) and, as part of the media schedule, the 'Woman on bicycle' creative appeared as street posters for two consecutive weeks during that three month campaign (22 June – 5 July 2008). A few of the outdoor spots ran past deadline at the

publisher's (Adshel) discretion, but we have confirmed that all have now been replaced. Thus, the campaign is now complete, the material is no longer in market, and there are no plans for the material to run again.

The campaign was not directed to children or young people. Apart from minimal outdoor appearances, where exposure to a young audience cannot be controlled, all other media placements were for a mature audience and included lifestyle magazines, news and travel sections of newspapers, and similar sections on news websites or sites used for travel research.

The claim specifically refers to section 2.6 of the Code, which emphasises the need for advertisers to ensure that "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety." Prevailing Community Standards are then further defined to mean "the community standards determined by the Advertising Standards Board as those prevailing at the relevant time."

Emirates unequivocally agrees with these sentiments as written in the explanatory notes of the code, but would respectfully ask for the Board's consideration of the following points:

- a. As noted by the complainant, the location of the image is indeed France. In order to support the campaign, it was imperative that the image clearly depicted one of our long-haul destinations. The body copy of the advertisement clearly points to 'once you've arrived'.
- b. The wearing of bicycle helmets is not legally required in France. Indeed, the wearing of helmets by cyclists competing in the Tour de France was only made mandatory this year. While Emirates would in no way endorse illegal or unsafe acts as defined by Australian law, we are conscious of our responsibility to be as authentic as possible in our marketing communications and not mislead our travelers with regard to their travel destination. Europe is a high-volume destination for Emirates Australia and more than 80% of our target audience has visited the continent at least once before. It is admittedly a marketing quandary for Emirates regarding the extent to which we interpret Australian law in a European context, thereby potentially misrepresenting European safety regulations and consequently the traveler's expectations. For example we would not depict a vehicle driving on the left-hand side of a European road, or children wearing life jackets while traveling on an Italian gondola. Although the latter is mandatory in most Australian states, it is not a safety regulation or provision in Venice, and we would not want to mislead our advertising consumers in this way.
- c. Regarding the promotion of reckless behaviour, the photo was taken on what is visibly a pedestrianised street. The cyclist has conceivably just taken off and is moving slowly, alluded to by the group of pigeons still stationary but directly in the cyclist's path. We would contend that the perching position of the woman on the bike's luggage rack, and the fact that she is holding a partly-consumed baguette, implies that this journey is not for any extent of time and is more likely for the purposes of a 'playful' holiday photo only. This is supported by the message in the copy that after an Emirates flight you'll arrive refreshed and ready to simply enjoy yourself. The woman is looking directly into the camera and laughing, suggesting that she is just posing for an opportunistic photo. It was never intended to suggest that this is how one would make their way around a French city.

The complainant also states that the advertisement alludes to Emirates endorsing reckless behaviour and a disregard for safety. It would clearly not be in Emirates' best interests to promote such a message. We would hope that the adult audience for whom these marketing communications were intended will interpret the message appropriately and within the full context of the communication.

In summary then, and in response to the complainant's concerns, neither the cyclist nor the passenger in the advertisement is wearing a safety helmet because it would not be true or authentic to the location. We do not accept that the image endorses reckless behaviour, as nothing in the image suggests speed or that the image was captured on an open public street. We believe that the audience for whom this advertisement is intended will view the image as intended — a holidaymaker posing for a photo.

While the campaign is no longer in market and this was the only complaint received, verbal or non-verbal, in response to the 3-month campaign, Emirates does however take both the complaint and our responsibilities as an advertiser extremely seriously. We will in future endeavor

to increase our sensitivity when selecting our marketing imagery.

Emirates is fully supportive of the Code. We hope that the response above satisfies concerns raised by the complainant.

We ask that the ASB dismiss this complaint.

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 complainants' concerns that the advertisement depicted a woman on a bicycle without a helmet and reviewed the advertisement under Section 2.6 of the Code which deals with prevailing community standards on health and safety.

The Board noted that it is illegal in Australia to ride a bicycle without a helmet. The Board noted that the picture did not necessarily depict an Australian location but agreed that as the image was being shown within Australia the relevant Australian Road Rules apply.

The Board considered that the Australian Road Rules constituted the applicable community standard regarding bicycle safety and that the advertisement did therefore depict material that breaches the Australian community's standards and did contravene Section 2.6 of the Code.

The Board noted the advertiser's response stated the advertisement was no longer being used.

Finding that the advertisement breached the Code the Board upheld the complaint.

ADVERTISER'S RESPONSE TO DETERMINATION

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

No response had been received at time of printing, however advertiser's initial response advised campaign had been discontinued.