



CASE REPORT

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| 1. Complaint reference number | 329/07 |
| 2. Advertiser | NIB Health Funds Ltd |
| 3. Product | Insurance |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Discrimination or vilification Race – section 2.1 |
| 6. Date of determination | Tuesday, 9 October 2007 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features top footballer Paul Harragon explaining why NIB is worth another look as an African athlete pushes a trolley laden with a TV towards him. On the TV screen is the offer "\$50 The Athlete's Foot Gift Card". The commentator looks down to see that the athlete is barefoot and they smile at each other.

THE COMPLAINT

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

This ad is highly distasteful, offensive and racist as it implies that African people and or runners cannot afford to purchase shoes or do not wear shoes. As a person of African heritage I am deeply hurt and offended by this advertisement because as a result of my race it is implying that I also cannot afford to by running shoes unless I purchase there product which is absolutely false. Furthermore I have been subjected to taunts and jokes where others have alluded to them buying me NIB health insurance so I can get running shoes, when I already have private health cover from another provider. Its is also false that marathon runners of African decent do not wear shoes while competing. I recently watched the IAAF Athletics championship in Osaka on television and no runner competing competed in the marathon or other race event without shoes. I believe that this advertisement breaches Section 2.1 of the AANA Advertiser Code of Ethics which states that Advertisements shall not portray people or depict material in a way which discriminates or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.

THE ADVERTISER'S RESPONSE

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

We submit that the commercial in question does not contain material that discriminates against or vilifies any person or section of the community on account of their race, nationality or ethnicity.

The advertisement aims to show in a light hearted, humorous manner that "More young Australians are joining NIB". This advertisement is part of a range of advertisements that show a range of different young people from all walks of life. The advertisements portray a series of characters including a man covered in acupuncture needles, a woman with her mouth filled with dental apparatus, tradesmen, footballers, a bride, a blind man and a number of athletes. In the particular advertisement, the athlete is the hero character. He is shown to be running with a team of athletes and stops next to Paul Harragon who is discussing the benefits of NIB. The man's face and skin colour is irrelevant to the concept being promoted, which is to show a number of different young people who are interested in fitness or health in some way. This execution would have worked just as well if the scene involved any person of any sex or colour.

In this execution, the athlete is used as an example of a top athlete who is interested in fitness and health. He and Paul Harragon share a joke as they both notice that he would not want the Athlete's Foot voucher, as he is a barefoot runner. This is done in the spirit of a shared joke from one top athlete to another. Historically, there are many instances of runners from various African nations training and competing barefoot by choice in international championships and events, as this is how they trained and developed as top athletes. This was not associated with any form of racial discrimination.

There is absolutely no implication that the hero athlete is not wearing shoes as a result of poverty or hardship, or that by joining a health fund he could now afford shoes. Similarly there is no implication that people or athletes of any particular origin cannot afford shoes, do not wear shoes, or are poor. The athlete is not portrayed as poor, unsophisticated or disadvantaged in any way. He is not shown to be the subject of any ridicule, derision, or contempt and he is not shown in a mocking or deriding manner. There are no negative suggestions about his character or circumstances and there is no racial prejudice at play. The man is shown to be well dressed, comfortable, proud and happy, sharing a joke with Paul Harragon. The marathon runner is a handsome, fit and healthy looking person and for this reason was selected for the commercial.

We do not believe the advertisement discriminates against or vilifies people on account of their race. The overall message is a positive, tolerant and unifying one. The commercial embraces diversity and choice, and celebrates the variety of different interests and activities out there for young Australians.

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 concern that the advertisement discriminated against people of African heritage.

The Board noted that there are professional runners who choose to run barefoot and that the advertisement uses an image of such a person to suggest that you should join NIB in order to take advantage of the footwear discount voucher. The Board considered that the depiction of bare feet was a visual reference to the promotion of the 'Athlete's Foot' voucher.

The Board considered that the advertisement did not suggest that the barefoot man was barefoot because he could not afford shoes. The Board considered that the advertisement did not make fun of or disparage the person of African heritage and did not breach section 2.1 of the Code.

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