



CASE REPORT

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| 1. Complaint reference number | 356/07 |
| 2. Advertiser | Nissan Motor Co Aust Ltd (Pathfinder) |
| 3. Product | Vehicles |
| 4. Type of advertisement | Outdoor |
| 5. Nature of complaint | Discrimination or vilification Nationality – section 2.1 |
| 6. Date of determination | Tuesday, 13 November 2007 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This outdoor advertisement features a family - mum, dad, son and daughter and a dog, wearing multiple silver rings around their stretched necks, and on their wrists and ankles. They are also wearing a variety of feathers and the young boy is holding a native spear. Text heading the image reads "Nissan Pathfinder. The 4WD for adventurous families."

THE COMPLAINT

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

The reference is clearly made to the Paduang woman of Burma. Thousands of the ethnic tribe fled their homeland to escape the Burmese army's program of forced labor, slavery designed to help the army. The Padaung traveled along the Pei River and crossed the border into Thailand where Thai entrepreneurs offered them a relatively lucrative deal. In exchange for living in a subsidized community, wearing neck coils, and being displayed to tourists seven days a week, each Padaung woman would receive a very small monthly salary and allotment of rice. Thai tour operators created a village for the women and advertised their sensational attraction to international tour companies around the world, charging US\$12 per person to see the women and additional fees for photography and videos. Padaung villages in Thailand are bizarre worlds created by Thai tour operators, and the women receive no official support or legal endorsement from the Thai government. In fact, Padaung are not allowed to farm Thai land, work in Mae Hong Son, or send their children to Thai schools. And they certainly don't represent some sort of altruistic movement motivated by enlightened political goals. The women themselves take a pragmatic approach to their role in the local tourist industry. Most accept their fate as showcases for the machinery of tourism and quietly sit on their steps while a steady stream of tourists snap photographs--an ethnic minority caught in a web of political intrigue, wretched poverty, powerlessness, and ruthless economic exploitation. Given the current situation in Burma I consider the campaign to be in extremely poor taste, and offensive to say the least. The fact they are being exploited in Thailand is bad enough without being used to promote sales of 4WD.

THE ADVERTISER'S RESPONSE

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

As the complaint does not relate to any claims made about a motor vehicle or in relation to the manner in which it is being driven, there can be no breach of any section of the FCAI Code of Practice for Motor Vehicle Advertising ("FCAI Code"). While the FCAI Code may not apply to this matter, it is useful to have regard to a paragraph in its Explanatory Notes where it is said: 'FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles. However, such devices should not

be used in any way to contradict, circumvent or undermine the provisions of the Code.”

The advertisement shows a family consisting of parents, two children and the family dog standing in an indeterminate setting above a much smaller picture of a Nissan Pathfinder below a heading that reads "Nissan Pathfinder The 4WD For Adventurous Families." The family members are all dressed in normal civilian clothing but they are all (including the dog) wearing an exotic collection of bangles, bracelets and rings on their ankles, wrists, and arms. They are also depicted as wearing rings around their necks with the result that their necks look as though they are unnaturally elongated. This look is similar to that of a number of overseas people who use neck rings to achieve this result.

(A series of) advertisements were intended to create in consumers minds a vision of far away places to which they can take the vehicle. We cannot see how their publication could bring consumers to the somewhat far fetched conclusion reached by the complainant. In each of the three advertisements in the Pathfinder campaign, the family members are wearing a collection of clothing and ornamentation and carrying weapons that come from many different countries. In none of these advertisements do the families wear an array of ornamentation worn by a particular people or tribe from a specific country.

The use of the bangles on the necks of the family members in the advertisement complained of may remind a relatively few people of the Paduang women but it is more likely to remind consumers of other tribes and races from other countries and continents that use neck rings in exactly the same way without any hint of the exploitation referred to by (the complainant). There was no intention to draw the attention of the consumer to any particular race or group of persons. Rather, the clear intention of Nissan was to use obviously exotic and outlandish clothing and ornamentation to emphasise the ability of the Nissan Pathfinder to take families on exciting and possibly exotic adventures.

By showing families in this way, Nissan has used humour and a little exaggeration to advertise one of its motor vehicles but not in any way that could be said to exploit a particular group of people as alleged by the complainant such that they are “vilified” in a manner that would be in breach of the Code.

Vilification is a strong, emotive action by a person and Nissan believes it has not conducted itself in such a fashion in this circumstance or ever. Nissan submits that the advertisement complained of does not in any way discriminate against or vilify a person or section of the community on account of race, ethnicity or nationality.

It may have been different had Nissan used actual footage of the Paduang women, but it did not – it showed an average Australian family in what might be termed “dress ups” and in a way that could only be regarded as fanciful. It would be a difficult task indeed for any consumer to make a connection between the subject advertisement and any particular race or group of people and then demonstrate that the advertisement in some way vilified that race or group of people.

Nissan considers that the complaint is not justified and should be dismissed.

THE DETERMINATION

The Advertising Standards Board (“Board”) was required to determine whether the material before it was in breach of the Federal Chamber of Automotive Industries’ Advertising for Motor Vehicles Voluntary Code of Practice (the “FCAI Code”). The Board determined that the material before it was an “advertisement for a motor vehicle” and therefore that the FCAI Code applied. The Board determined that the advertisement did not breach any of the provisions of the FCAI Code.

The Board then considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant's concern that the image of the family wearing neck rings was offensive.

The Board noted that the advertisement has the entire family wearing the neck rings - not just the women. The Board considered that most people would think that wearing neck rings was a cultural tradition in a number of Asian and African cultures and would be unaware of any particular concerns with the Paduang women. The Board considered that the advertisement clearly intended to state that

the advertised car was a 4x4 vehicle that could take a family to all sorts of places. The representation of the family wearing neck rings was a suggestion of the type of exotic place that the vehicle could take you and would clearly be seen as an exaggerated metaphor for travelling in the car to different places in Australia.

The Board considered that most people in the community would consider the advertisement humorous and not suggestive of racial discrimination or any other form of vilification or discrimination under section 2.1 of the Code. Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.