



## **CASE REPORT**

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| 1. Complaint reference number | 372/07  |
| 2. Advertiser                 | Foxtel Management Pty Ltd                               |
| 3. Product                    | Media   |
| 4. Type of advertisement      | TV  |
| 5. Nature of complaint        | Discrimination or vilification Disability – section 2.1 |
| 6. Date of determination      | Monday, 19 November 2007                                |
| 7. DETERMINATION              | Dismissed   |

## **DESCRIPTION OF THE ADVERTISEMENT**

This television advertisement is set in the kitchen of a suburban home where a wife, husband and two teenage sons are at breakfast. Trying to initiate some conversation the woman relates "So...I slept with your brother last night", and as the husband looks up from his newspaper with a blank expression on his face, she adds "Yep. And your dad...And your mum." At the husband's bland reaction "Really?" she continues "Oh, and you know that time you gave me one of your kidneys? I didn't even need a transplant. I sold it and went on holiday...with one of Brian's friends" at which she gets an appalled reaction from one of her sons, obviously named Brian. In a bored voice the husband comments "Saucy..." causing his wife to be slightly annoyed, tapping her fingers on the table as a male voiceover is heard announcing "Can't wait for great drama? Well, anytime's a sensational time when you've got FOXTEL."

## **THE COMPLAINT**

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

*The woman in the ad made light of kidney donation and I know there are many many people in need of kidney transplants. These transplants are life and death. This is very personal to our family as we have been through kidney transplantation.*

## **THE ADVERTISER'S RESPONSE**

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

*The Wife TVC was not designed to make light of organ donations. The script features a wife who mentions a range of serious controversial issues to her husband, in a manner similar to a soap opera plot, in an attempt to obtain her husband's attention. The wife is seeking more "drama" in her life, and she could get this if she had Foxtel.*

*The AANA Code of Ethics does not establish grounds or guidelines for objecting to a television commercial generally or because a viewer does not like it. Rather, an advertisement must breach a listed prohibition. The complaint suggests the Wife TVC breaches Section 2.1 of the Code. Foxtel rejects the view that it has discriminated against or vilified any person/s and does not believe it has breached this section of the Code.*

*For the abundance of caution, Foxtel has also considered whether it has breached Section 2.6 of the Code. That section requires that advertisements must not depict material contrary to prevailing community standards on health and safety. While organ donation is a serious issue, the Wife TVC has not portrayed the issue of organ donation in a derogatory manner, and has not encouraged or promoted the donation or acceptance of an organ. The fact that Foxtel considers*

*organ donation so controversial as to provoke the husband's attention in the script is evidence of Foxtel's understanding of the prevailing community standard on how serious and important organ donation is.*

*Viewed in the context and humour of the TVC in its entirety, it is clear that Foxtel has neither discriminated against organ donors or recipients, or vilified such people, or contradicted the community standards on the seriousness and importance of the organ donation process.*

*While Foxtel regrets that the Wife TVC caused the complainant offence, it rejects the view that it has breached the Code.*

## **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 makes fun of or makes light of people who have needed kidney transplants.

The Board noted that the comment in the advertisement was in the context of a series of controversial statements that the wife makes to her husband. The Board considered that all of the comments were clearly intended to be seen as the wife trying to create some drama in her life or at least some reaction from her husband. The Board considered that most people would consider the wife's statements to be untrue and attention seeking and not an indication of what most people would consider good behaviour or attitudes.

The Board noted that some people would find these statements in poor taste and possibly upsetting if they have experienced some of the situations described but that the statements did not breach the Code.

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