



CASE REPORT

1. Complaint reference number	425/09
2. Advertiser	Nautilus Marine Boat Insurance
3. Product	Insurance
4. Type of advertisement	Print
5. Nature of complaint	Discrimination or vilification Ethnicity – section 2.1
6. Date of determination	Wednesday, 14 October 2009
7. DETERMINATION	Upheld – discontinued or modified

DESCRIPTION OF THE ADVERTISEMENT

This print advertisement for boat insurance features the smiling faces of the sales team of Nautilus Marine Boat Insurance and at the top of the advertisement an image of an Asian boat loaded with people. Text in the advertisement reads "there's boat people ... and There's boat people".

THE COMPLAINT

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

The advertisement features an image of what is suggested to be a boat full of illegal immigrants, crammed with passengers, low to the waterline and in imminent danger of capsizing or sinking. It also features photographs of the people who work at Nautilus Marine Boat Insurance.

THE ADVERTISER'S RESPONSE

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

Summary of complaint:

1 We have breached section 2.1 of the AANA Code of Ethics

2. Our advert is offensive "to illegal immigrants, and to anyone who understands Or sympathises with the plight Of people who are forced to enter Australia illegally via boat from SE Asia to escape danger or prejudice in their country of origin"

Please note that the advert was placed in an industry only publication to the insurance industry, it is not sold to the general public. We are a company that promotes our expertise to insurance intermediaries for their clients boating insurance needs.

The inference in the complaint is a long way from the Intention of the advert. The Intention expressed to our intermediaries is that we know boats. There are people who use boats for transport as part of their daily activity and there are people who insure boats as part of their business practice. The advert to the insurance industry is promoting that our staff at Nautilus Marine know boats and we have the expertise when insuring them.

We disagree With the comments that the picture portrays the vessel "low to the waterline and in imminent danger of Capsizing or sinking". The people on the boat show no signs of distress and it is clear that it is a commuter boat. They are well dressed, obviously commuting, including one with a bicycle in hand and others with shopping bags.

The image and text is directly related to a style of boat. There is a wide variety of marine craft worldwide and this style of craft and number of occupants aboard would not be uncommon for a variety of uses in many regions. There is nothing in the advert that discriminates or vilifies a

person or section or the community per 2.1 of AANA Code of Ethics, there is no reference to any particular person/s or region.

The image library this was purchased from titles the Image "Crowded Ferry, A small ferryboat in Hunan Provence". The photo Was selected on the basis that It shows nothing more than numerous people on board a boat.

We do however see how this could be misconstrued and voluntary elected not to continue with the advert post the publication edition the complaint was received from.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board viewed the advertisement and noted the complainant's concerns that the advertisement depicts people in a discriminatory and demeaning manner on account of their race, ethnicity and circumstance and was in very poor taste to attempt to use the plight of "refugees" to market a boat insurance product.

The Board noted the advertiser's response which referred to the statement that the caption was intended to depict people who use boats for transport as part of their daily activity and there are people who insure boats as part of their business practice.

The Board then considered the application of section 2.1 of the Code. Section 2.1 of the Code states:

"Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against 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 Board noted that its responsibility in determining whether an advertisement is in breach of the Code, is not to solely consider the objective intention of the advertiser. The Board must consider the issues raised in each complaint and then undertake a subjective analysis, which focuses upon the question of whether the advertisement is in breach of the 'prevailing community standards'. The Board noted that many people in the community would be offended and/or confused by the depiction of the image of the people in the crowded boat and the slogan "there's boat people and There's boat people". The Board considered that, although the image appears to be a commuter boat, the image alongside the description 'boat people' is likely to suggest that the image is of people attempting to travel to Australia without going through appropriate immigration channels. The Board considered that the terminology 'boat people' is a negative term and that the image of Asian people juxtaposed with the images of the staff of the advertiser, in the context of the term 'boat people' created a negative and degrading impression of Asian people. The Board referred to the Research Report on Discrimination and Vilification Advertising 2009 and agreed that the advertisement was in breach of section 2.1 of the Code because it was exploitative of the real and confronting issues around migration and was a demeaning and degrading portrayal of the people in the photo. The Board determined that the advertisement breached section 2.1 of the Code. The Board noted that the advertiser has already voluntarily agreed to not use the advertisement again.

Finding that the advertisement was in breach of section 2.1 of the Code, the Board upheld the complaint.

ADVERTISER RESPONSE TO DETERMINATION

Comments which the advertiser made in response to the Board's determination are:

Your notification received, we have nothing more to add apart from confirming the advert was voluntarily discontinued sometime before the complaint was raised to your office.