



CASE REPORT

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| 1. Complaint reference number | 451/08 |
| 2. Advertiser | DaimlerChrysler Australia/Pacific Pty Ltd |
| 3. Product | Vehicles |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Discrimination or vilification Religion – section 2.1
FCAI - Other |
| 6. Date of determination | Wednesday, 12 November 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for Mercedes Benz vans shows a van being driven in the countryside and in a town. The statement "Overseas model shown" is screened at the beginning of the advertisement. The voice over tells viewers about the low cost of Mercedes Benz vans, ending on a screen shot which states "Impressively on the money".

THE COMPLAINT

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

*The driver at the end of the ad when talking about hiding your cheapness is an obvious and large nosed Jew. Terrible propaganda campaigns started in Germany when Hitler started to gain power. They were always cartoon of Large nosed Jews, and over time the general population have come to see Jews as cheap. I feel the continuation of this negative subliminal message detrimental to all communities. It took me several viewings to even notice, but once I did I felt sickened by the realisation that they must have thought out the choice to use an obvious Jew. This offends me greatly and saddens me about our future.
Thank you*

THE ADVERTISER'S RESPONSE

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

Outline of the Advertisement and the Complaint

The Complaint relates to an advertisement for a Mercedes-Benz Vito Van ("the Advertisement"). The Advertisement shows a Vito Van driving through various landscapes, and conveys the message that Mercedes-Benz vans are more affordable than they appear.

The Complaint relates to a scene towards the end of the Advertisement, in which the driver of the vehicle smiles at the camera, and a voice-over is heard stating "So no one will know just how cheap you really are."

It appears that the Complaint has been made under s 2.1 of the AANA Advertiser Code of Ethics ("AANA Code"), which provides:

Advertisements 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 Complainant appears to object to the Advertisement on the grounds that the voice-over,

coupled with the physical appearance of the actor (who the Complainant considers to be an "obvious and large nosed Jew), conveys a racially prejudiced stereotype of Jewish people. The Complainant sees this as MBAuP creating a negative subliminal message.

MBAuP does not consider that the Advertisement is in breach of the Code, and respectfully submits that this Complaint should be dismissed.

MBAuP takes its responsibilities as an advertiser very seriously. When preparing its advertisements, MBAuP is acutely aware of the provisions of the AANA Code, the law and its , responsibilities to the general community. All of MBAuP's proposed advertisements are subject to a series of checks before publication, including approval by MBAuP's legal department.

With the greatest of respect for the sensitivities of the Complainant, MBAuP does not consider the Advertisement can fairly be interpreted in the manner suggested by the Complainant. There is nothing in the Advertisement which depicts the actor as a person of Jewish or any other heritage.

The Complainant refers to the actor as being a "large nosed Jew'. MBAuP does not consider that a "large nose" in itself is sufficient to depict the actor as a person of Jewish or any other descent, particularly in the contemporary Australian context. In any event, MBAuP does not believe this actor has a large nose, and notes that whether a person's nose is considered to be large or small is both relative and highly subjective.

Further, MBAuP emphatically denies that MBAuP had "thought out the choice to use an obvious Jew", and certainly did not and has no intention of conveying any anti-Semitic messages.

MBAuP greatly regrets that the Advertisement has been interpreted in this manner, and wishes to assure the Complainant that MBAuP in no way intended to perpetuate a racial or religious stereotype. MBAuP is sensitive to the views of those who are exposed to its advertisements. MBAuP regrets that this Advertisement has caused the Complainant distress and while MBAuP considers the Complaint to be unwarranted, MBAuP will bear the Complainant's comments in mind when preparing advertisements in the future, and will endeavour to continue to provide advertisements that reflect MBAuP's commitment to community expectations in this regard.

AANA Advertiser Code of Ethics and FCAI Code of Practice for Motor Vehicle Advertising MBAuP does not consider any other sections of the AANA Code or the Federal Chamber of Automobile Industry Code of Practice for Motor Vehicle Advertising ("FCAI Code") can be interpreted to apply to the Complaint. As your letter has requested that MBAuP respond with particular reference to FCAI Code, MBAuP briefly addressed these issues:

Section 2.1 : Does not discriminate against or vilify any person or section of the community. The Advertisement does not discriminate against or vilify any person or section of the community, as discussed above,

Section 2.2: Does not portray violence. The Advertisement does not portray violence, nor are any such allegations made.

Section 2.3: Does not contain reference to or depiction of sex, sexuality or nudity. The Advertisement does not portray depictions of sex, sexuality or nudity, nor are any such allegations made.

Section 2.4: Is not directed at children 14 years or younger, or targeted at children. As a motor vehicle advertisement, the Advertisement is not directed towards children, nor are any such allegations made.

Section 2.5: Does not contain strong or obscene language. The Advertisement does not contain strong or obscene language, nor are any such allegations made.

Section 2.6: Does not portray material contrary to prevailing community standards of health and safety. The Advertisement does not contain any such material which could be constructed as contrary to such standards, nor are any such allegations made.

Section 2.7: Does not breach the FCAI Code.

Clauses 2(a)-(e) The Advertisement does not portray:

- any unsafe driving or other practices;*
- driving in excess of speed limits;*
- driving practices in breach of relevant laws and regulations;*

- *driving when not in a fit state; or*
- *causing environmental damage.*

In any event, there are no allegations in the Complaint of unsafe driving or other practices.

Clause 3 - The Advertisement does not portray any motor sports, and there are no allegations in the Complaint relating to motor sports.

Clause 4 - The Advertisement does not depict off-road vehicles, and there are no allegations in the Complaint relating to off-road vehicles.

*Section 2.8: Must comply with the AANA Food and Beverages Marketing Communications Code
The Advertisement is not in respect of a food or beverage product.*

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”) and the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (the “FCAI Code”).

The Board noted it did not find any issues for consideration under the FCAI Code.

The Board then considered the application of Section 2.1 of the Code, relating to discrimination and vilification and noted that the complainant considered that the advertisement vilified Jewish people. The Board considered that most members of the community would not consider the advertisement was a depiction of Jewish people or any other identifiable section of society, rather that it just depicted a man driving the vehicle. The Board also considered that the reference to the cost effectiveness of the vehicle would not be considered to be a vilifying or discriminatory message of itself and that in the context of this particular advertisement was not vilifying of any identifiable section of the community. The Board therefore found no breach of Section 2.1 of the Code.

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