

CASE REPORT

1. Complaint reference number	551/09
2. Advertiser	Williamson Bros (Ravensthorpe Ridge)
3. Product	Real Estate
4. Type of advertisement	TV
5. Nature of complaint	Violence Other – section 2.2
6. Date of determination	Health and safety – section 2.6
7. DETERMINATION	Wednesday, 9 December 2009
	Upheld – not discontinued or modified

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a man wearing a hat and a gun over his shoulder. In the background is the outdoors. The man says: "*hi, my name is Ross Williamson, I love the bush and I know you'd love it to, which is why I am selling blocks here at Ravensthorpe Ridge ... now with every block you buy I am giving a way a free firearm, because when you have acres of property a firearm is something you will need and enjoy ... I am serious, this is a legitimate offer ...*". A caption appears across the bottom of the advertisement which says that purchasers are eligible to receive a firearm upon presentation of a current Firearm Licence in accordance with the WA Firearms Act 1973.

THE COMPLAINT

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

He was stating he would 'give' a firearm to all clients who purchased a block of land. This is highly dangerous and breaches health and safety.

I object to the display of a fire arm making it an object of desire - at this time of the day the advert could be seen by children and give them the impression that a gun is a good thing - i know the saying goes that guns don't kill people, people do - but a person with a gun is not a positive role model for anyone.

FREE FIREARMS? IS THIS AUSTRALIA OR THE USA?

*Children's timeslot
Advertising firearms
Breaching advertising standards?
Breaching firearm legislation?*

THE ADVERTISER'S RESPONSE

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

Section 2.6 of the AANA Code of Ethics

The complaint refers to section 2.6 of the AANA Code of Ethics which says "Advertising or Marketing Communications shall not depict material contrary to prevailing community standards on health and safety".

Nothing in the ad has anything to do with the subject matter of this section. It does not make sense

to say that a firearm can be used in an “unhealthy” (or healthy) manner; and even if it did this ad would not offend. Of course it is possible to use a firearm in an unsafe manner. But nothing in the ad can be construed to constitute the “depiction” of such a practice. No breach of any safety rule or convention is suggested at all in the radio ad. Therefore, in terms of this part of section 2, I have no case to answer.

Section 2.2 of the AANA Code of Ethics

The same applies in relation to section 2.2 which is “Advertising or marketing communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised”. Self evidently, absolutely nothing in the ad can be construed as presenting or portraying violence.

Section 2 of the AANA Code for advertising and marketing to children

Your reference to children presumably is a reference to section 2.1 of the AANA Code for Advertising and Marketing to Children which provides as follows: “Advertising or Marketing Communications to Children must not contravene Prevailing Community Standards”. The whole Code is designed to create obligations on advertisers in relation to “Advertising or Marketing Communications to Children”; and section 1 defines that expression as “Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product”.

By no stretch of the imagination can it be said that this ad is directed in any way to children, let alone “directed primarily to Children”. Obviously the ad is directed to people who may want to buy rural land in a remote location. It hard to imagine an ad more “directed” to adults. In terms of this Code, therefore, there is, again, no case for me to answer.

Children’s timeslot

Nothing in the ad makes it unsuitable for a child to see. The spoken references to firearms, and the image of one firearm, are not at all threatening to the viewer. There is no hint of misuse of firearms. The firearm is not even discharged. The image of the firearm is within a context of it being carried by a sane, sober - even friendly - man who doing nothing more than merely holding (safely) a non-military, sporting rifle. Many thousands and thousands of children in Australia see this image in real life everyday: on farms, at shooting ranges, in the countryside with their parents. I know that there are some people who take it upon themselves to “hate firearms” and who unconsciously transfer that hatred on to others, especially children, in an effort to convince themselves that their difficulty with firearms is normal or somehow right. But it is not. This aspect of your complaint has no reasonable basis.

Nature of ‘complaint’

Indeed your complainant does not actually allege a case under any part of any of your Codes. What he or she is, in effect, complaining about is the fact that it is possible to refer to private firearm ownership in this country: the subject of complaint is that there is private firearm ownership in this country. Hence the stated “reason for concern” is “encouraging the ownership and usage of firearms”.

The fact that an ad is possible because the law of the land permits (limited and highly regulated) private firearms ownership, and refers indirectly to that fact, is not a legitimate, logical or reasonable subject of complaint to you under your Codes. The “complaint” inevitably must be dismissed.

Further information

I point out that I am a certificated lawyer in WA and have been so for 23 years. I am a registered and licensed firearms dealer under the Firearms Act of WA. I have a legal right to sell firearms in this State. I have the right to advertise that fact as well. The police are well aware of my advertising campaign and have made no complaint. Obviously no one can collect a firearm from me unless he or she has a licence; and the licence can only be issued once the police are satisfied as to his or her character and need for the firearm. That is the law.

Community response to advertising campaign

Your complainant's "complaint" is not representative of the general community response to my campaign. You should know that I have got many more supportive responses to my advertising campaign than complaints. Indeed I have been astonished by the number of people who I have never met who have given me unsolicited emails and phone calls of support in response to the campaign. The ad has been successful from a marketing point of view too. I have sold 6 lots of land since it started. I might mention also that only one person has shown an interest in actually taking up my "free firearm" offer (and he already has firearms).

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 encourages the ownership and use of firearms.

The Board noted that it is not its role to decide whether or not the advertiser is legally permitted to make this type of offer or 'giveaway'. However the Board did note that this advertisement includes reference to the fact that the firearm is only able to be given to a person who holds a firearm licence.

The Board considered this particular advertisement and the giveaway. The Board noted that use and control of firearms is a matter that is of varying concern to the community. At times there is a high level of concern in the community about access to and control of firearms. At other times there is a relatively low level of concern amongst the general (non firearm owning) section of the community about how firearms are controlled.

Overall however the Board considered that it is a community standard that the use of firearms is seen as a serious safety issue and should not be trivialised. In the Board's view this advertisement trivialises ownership and use of a restricted product. In the Board's view this depiction is contrary to prevailing community standards on safety, in particular use and ownership of firearms and does breach section 2.6 of the Code.

Finding that the advertisement breached the Code, the Board upheld the complaint.

ADVERTISER'S RESPONSE TO DETERMINATION

Comments which the advertiser made in response to the determination regarding this advertisement included the following:

At time of publication the Advertiser had not responded to the Determination.