



CASE REPORT

1. Complaint reference number	70/10
2. Advertiser	Austar
3. Product	Entertainment
4. Type of advertisement	TV
5. Nature of complaint	Violence Domestic violence – section 2.2
6. Date of determination	Wednesday, 24 February 2010
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This tv advertisement depicts two men at a bbq, they are discussing Austar entertainment, one is wearing a hat with feather in it. In the background a cat has latched onto a man's back, he pulls it off his back and throws it into the pool.

THE COMPLAINT

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

I write to complain about an Austar advertisement on channel 7. It shows a person throwing a black cat onto the back of a man standing by a swimming pool who then falls in, taking the cat with him. We and several of our friends who love animals think this is setting a bad example to children, who should be taught to respect animals. The action is to portray bad luck, but surely there must be more appropriate ways of depicting this. Already in our area only last week two teenagers were found to shoot at a koala and baby up a tree with an air riffle gun. The baby and mother were rescued by rescuers of the Australian zoo and taken there to the hospital for treatment. The baby died and the mother is still in hospital being treated. We do hope this bad taste ad is removed from the screen with your help.

On 13 January 2010 your station transmitted an advertisement for AU STAR which shows a "cat" being thrown by one individual onto an "unsuspecting person" (with sound effects of an animal in distress). The "cat" clings to this individual until he throws the "cat" into a swimming pool to the laughter of "bystanders" and where the "cat" is left. The advertisement is in the break time of channel 7 6 pm news. Family time! A time when families usually first socialise after the day. I complained to Austar that this advertisement caused distress as it not only condones animal cruelty but promotes it. The response of Austar's representative was that their advertisement was humour and the "cat" was a dummy. Austar could not explain which part of their advertisement they considered humour. Was it the part where the individual threw the "cat" on an unsuspecting individual? Was it the sound effects of an animal in distress as the "cat" was being thrown? Was it the surprise and pain the individual suffered when the "cat" attached itself to him? OR was it the final scene where the "cat" is thrown into the swimming pool to drown? Austar has no acceptable response. How do you explain this advertisement to children? You can't other than to switch to a different channel and give no business to either the station Dr Austar. I say that the advertisement breaches your Code of Conduct and should not be shown.

THE ADVERTISER'S RESPONSE

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

We note that the nature of the complaints in question relate generally to concerns of cruelty to

animals. We have considered the complaints and the advertisement in question in light of all of the provisions of the AANA Code of Ethics (**AANA Code**).

The most relevant section is Provision 2.2 which states:

“Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.”

In our view, the advertisement in question does not present or portray violence for the reasons set out below.

To provide some background and context, the advertisement aims to show that AUSTAR’s sporting coverage allows the main character to see his team play every week and as a result he is wearing his ‘lucky hat’. The ironic twist in the advertisement is that the lucky hat sets off an unlucky and highly unlikely chain of events. In line with this concept, the customary ‘black cat’ was used as a key part of this comic sequence.

We note that the complaints in question relate to the sequence of events involving the cat.

In order to evaluate the complaint it is important to note how the sequence of events unfold:

1. The hero lucky hat character adjusts his hat and accidentally brushes against a man behind him. This man then loses his balance and steps back, and in doing so he startles a cat.

2. The cat is not thrown. Rather the cat jumps onto the back of another man at the barbecue.³ This man does not throw the cat. He reaches around and tries to remove the cat from his back, and in doing so stumbles towards two other guests who fall into the pool. The cat is not thrown it is simply removed from his back.

4. At no time is the cat shown in the pool or in the water. The cat is shown to be at the side of the pool at the end of this sequence.

Significantly the cat used in the filming of the commercial is a dummy and it is clear to the viewer that this is not a real cat by its unrealistic appearance and movements. The scene is farcical and presented in a slapstick and unrealistic fashion. A reasonable person would be likely to take it as a piece of slapstick, rather than as a literal or serious depiction of events.

The scene portrays an accidental sequence of events, which are not representative of violence or cruelty. The characters, who are initially in a relaxed and friendly backyard barbecue setting, are clearly all reacting in a reflex manner to an unexpected chain of events. The cat is not intentionally treated in a cruel or violent manner, and no person indicates any malice or aggression towards the cat at any time. One person accidentally steps back and startles the cat and is clearly surprised by this occurrence. The second person simply tries to get the cat off his back and stumbles. He is also clearly taken by surprise and is not acting in a planned or deliberate manner. All of these events are accidental and unintentional. The overall tone of the commercial is comical and light hearted.

Accordingly in our view the advertisement does not encourage or condone violence or cruelty towards animals. Nor does the advertisement depict violence or cruelty to animals.

Therefore we find that the advertisement does not breach Provision 2.2 of the AANA Code.

In this regard we note the determination of the Advertising Standards Board in relation to complaint reference number 480/09 for Fosters (Pure Blonde) in which a bird was shown to fly into a wall, and is then kicked off a scaffold by a painter. We understand that the complaint was dismissed on the basis that the actions taken against the bird were not violent or malicious. We hope that the Board will see the similarities in the circumstances here and find a similar outcome.

We have considered the other provisions of the AANA Code and do not consider that the advertisement breaches the Code on any other grounds.

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 had depicted cruelty to animals by showing the cat being thrown around.

The Board noted the advertiser's response and events involving the cat. The Board considered whether the advertisement was in breach of section 2.2 of the Code. Section 2.2 of the Code states:

"Advertising or marketing communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised."

The Board noted that the cat is shown to jump onto another man's back and that another man pulls the cat off the back. The Board considered that the images of the cat were very quick and difficult to ascertain but that the cat was not thrown and there was no depiction of the cat being thrown into the water.

The Board noted that the advertisement is intending to show a chain of events caused by an accident, that the depiction was exaggerated, and that most people in the community would understand that the scene was unreal and fanciful. The Board considered that the advertisement does not show violence or cruelty to animals and determined that the advertisement does not breach section 2.2 of the Code.

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