

ANISIMOFF LEGAL ASB BULLETIN – JUNE 2013

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Below are some of the recent interesting ASB decisions that were released during May 2013:

1. **0125/13 All Interactive Entertainment – AANA Code of Ethics Sections 2.3 and 2.6 – Violence and Health and Safety – Upheld:** A TV trailer for a video game called "Dead Island: Riptide", depicted a CGI animated scene of a couple inside a boat that is besieged by zombies. As the zombies fight their way inside the boat, the couple gazes at each other sadly, and knowing they have no hope of survival, ignites some gas canisters in the boat causing it to explode and kill themselves and the zombies attacking them. The trailer ends with the logo for the game, which includes the image of a hanged corpse as part of the game's logo. A longer version of the TVC (i.e. The full trailer) can be seen here: <https://www.youtube.com/watch?v=NWh84-Hjcs4>. Complaints were raised that the ad was too graphic in its depiction of suicide. This was upheld by the Board: "The Board noted the fantasy content and the stylised nature of the advertisement and considered that the issue of suicide is a depiction of violence which is not justifiable even in the context of an advertisement for a computer game aimed at adults ... The Board noted that the issue of suicide is a very significant community concern and considered that the use of images which are strongly suggestive of suicide is not appropriate in the context of a television advertisement for a computer game."
2. **0218/13 Mini Australia – FCAI Code – Unsafe driving - Upheld:** A TVC for Mini Cooper depicted a couple racing each other to get home. Several dangerous manoeuvres were performed in narrow urban streets, including nearly colliding with a truck. At the end, the woman beats the man home, and gives him the finger. Ad can be viewed here: https://www.youtube.com/watch?v=urS_qrnz7rE. Complaints were raised that the finger gesture was rude and inappropriate. Board dismissed complaints in regards to the rude gesture, but upheld the complaints on the basis of dangerous driving: "The Board noted that the explanatory notes for the FCAI Code ... and considered that the suggestion of two cars racing each other in an urban setting is not appropriate and is a depiction of driving which is unsafe. The Board noted that in some of the driving scenes the audio includes sounds of tyres squealing and high revs: at the beginning of the advertisement when the man pulls away from the side of the road, when the man is turning round a corner and then driving down a deserted street and when he pulls away from a junction after we see his girlfriend pass in front of him. The Board considered that these audio effects in conjunction with the visual images of the vehicles driving in a manner which suggests they are in a hurry are suggestive of driving which is not appropriate for the urban environment depicted." On the issue of the middle finger, the Board noted "when the woman extends her middle finger to the man she follows the gesture with a smile to show she is not being serious and considered that the combination of the limited audience and the context of a rude gesture made in fun amounted to an overall depiction of language which is not inappropriate in the circumstances."
3. **0149/13 Gleamous – AANA Code of Ethics Section 2.3 – Violence – Upheld:** A radio ad for Gleamous hot water systems involved a man describing the features of

the system to his female friend, before then placing her hand in the hot water to prove to her how hot it is. The woman screams, then says she believes him, but is now going to sue him. Complaints were raised that the ad was inappropriate for implying the man had scalded the woman. The Board upheld the complaints: "The Board noted that the woman is heard to scream for some time. The Board noted that in addition to placing the woman's hand under the water, the man mentions that she now believes him about the temperature of the water but that she is also suing him. The Board noted that although the advertisement is intended to be humorous, it depicts a scenario that is intended to sound as if someone is in pain and that the addition of the comment that his girlfriend is now suing the man, suggests that the woman was actually harmed. Although obviously the actor in the advertisement is not harmed, the Board considered that the advertisement is suggestive of violence against a woman and that this suggestion is not justified by the product or service being advertised."

4. **0124/13 Ssang Yong – FCAI Code – Unsafe driving - Dismissed:** A TVC for Ssang Yong depicted a man standing on a ute tray whilst it was driving, only to reveal the whole thing is staged and the car is not really moving, breaking the fourth wall to simply state the price, rather than rely on bells and whistles. The ad can be viewed here: <http://www.youtube.com/watch?v=X6XHj1zpzlc>. Complaints were raised that it was dangerous to depict someone standing on the back of a moving vehicle, however this was dismissed as follows: "... the majority of the Board were satisfied that most members of the community would recognise the unreal nature of the moving scenery and considered that the final scenes of the advertisement do make it very clear that the Ute is not traveling but is stationary in a studio. The Board acknowledged that if a person were to stand in the back of a moving Ute it would be dangerous however the Board considered that the advertisement does not condone this practice and does not encourage copy-cat behaviour from members of the community."
5. **0150/13 Sportsbet – AANA Code of Ethics Section 2.6 – Health and Safety – Dismissed:** A TVC for Sportsbet depicted two punters, one who had placed a bet with TAB, the other with Sportbet's "3 Tote Plus" product. They both win, but the TAB punter is disappointed to see the Sportbet punter did better than him. Complaints were raised at the general saturation of gambling advertising in the media, and how the ad encouraged excessive gambling. Complaints were dismissed as follows: "The Board considered that the advertisement was focused on getting a better product from a different company and in such comparative advertising it is not uncommon to show one person happier than the other. The Board considered that the depiction of the man with inferior return was not a strong indication that someone can still be a loser even after winning and was unlikely to encourage increased gambling. The Board noted that the advertisement does not present gambling in a manner which indicates social success and considered that the advertisement does not suggest that the social status of the men who win the bet has been elevated as a result of their win."

If you have any queries or would like to discuss the above please contact any of the ASB experts detailed below.

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