



Case Report

1	Case Number	0037/15
2	Advertiser	Subaru (Aust) Pty Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	25/02/2015
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.1 - Discrimination or Vilification Ethnicity
- 2.1 - Discrimination or Vilification Race

DESCRIPTION OF THE ADVERTISEMENT

The advertisement opens on a family driving a new Subaru Outback from the suburbs to the country on different road surfaces. We see views of the interior of the vehicle, including the infotainment system and EyeSight safety cameras.

A voiceover says, "You know to pay any more for a car this good, would just be Highway Corroboree".

The on screen super reads, "ALL-NEW OUTBACK. MADE FOR AUSTRALIANA. AT AN UNBELIEVABLE PRICE".

THE COMPLAINT

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

I have seen it on multiple stations and it twists my gut each time.

The final line of the ad was "at this price it's highway Corroboree." As an Aboriginal person this is highly offensive to suggest that a sacred meeting celebrating culture can be linked to the price of an inanimate object.

It defames aboriginal people and culture by using the word Corroboree which is a sacred aboriginal ceremony in place of outback robbery.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

We refer to your letter regarding the above matter. Subaru Australia believes in responsible marketing and accordingly takes its responsibilities under both the AANA Code of Ethics and the FCAI Voluntary Code of Practice for Motor Vehicle Advertising (FCAI Code) seriously.

As we understand it, the complaints referred to in your letter raise concerns regarding the use of the word “corroboree” which the complainants allege is discriminatory and or vilifying towards people of Aboriginal heritage in breach of section 2.1 of the AANA Code of Ethics. Subaru Australia denies that it was either its intention or that the effect of the use of that word in ads is to be discriminatory or vilifying. Our reasons are set out below.

Background

In January 2015 Subaru Australia launched its all new MY2015 Subaru Outback, a rugged all-wheel drive vehicle which is just right for Australian conditions. As part of the launch campaign Subaru Australia enlisted the services of the well-known Australian comedian, Mr Billy Birmingham. Mr Birmingham is the author of a number of well-known Australian comedy skits, including the 1980’s smash hit “Australiana”. Australiana is a spoken word comedy which makes use of several “puns” incorporating Australian place names and icons to elicit humour. As part of the campaign, Mr Birmingham was asked to author several scripts in the same style as “Australiana” which Subaru Australia could use as the voiceover in various advertisements, to communicate the exceptional, value for money, fit for Australian conditions proposition that the MY2015 Subaru Outback represents, to the Australian public. The script for the advertisement in question is one such script.

AANA Code of Ethics

Subaru Australia understands that the two complaints that have been made are alleging a breach of clause 2.1 of the AANA Code of Ethics, which relevantly provides that:

2.1 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, gender, age, sexual preference, religion, disability, mental illness or political belief. [Emphasis added]

Definitions of “Discrimination” and “Vilify”

Subaru Australia submits that the key words in section 2.1 are the word “discriminates” and the word “vilifies”. Consequently, to determine if there is a breach of section 2.1 of the Code it is necessary to consider the definition of these terms. Subaru Australia notes the definitions referred to in the “Determination Summary” of the Advertising Standards Bureau (December 2014) as follows:

Discrimination: Acts with inequity, bigotry or intolerance or gives unfair, unfavourable or less favourable treatment to one person or a group because of their race, ethnicity, nationality, sex, age, sexual preference, disability and/or political belief.

Vilification: Humiliates, intimidates, incites hatred towards, contempt for, or ridicule of one person or a group of people because of their race, ethnicity, nationality, sex, age, sexual preference, religion, disability and/or political belief.

Socio-ethical considerations

Subaru Australia also notes the Research Report commissioned by the Advertising Standards Bureau in 2009 into “Discrimination and Vilification in Advertising” which states that it is important for the Advertising Standards Board to consider socio-ethical issues when determining complaints against section 2.1 of the Code.

Submissions

From both the above definitions it is clear that for “discrimination” and/or “vilification” to occur there must be some element of “malevolence” in the associated conduct (e.g. prejudice, evil, disparagement, denigration, slander etc). Subaru Australia respectfully submits that such elements are clearly absent from the subject advertisement.

Taking into account socio-ethical considerations, for “discrimination” and/or “vilification” to occur, the advertisement would need offend with regard to stereotyping or misrepresentation or constitute “wedge advertising” as expanded upon in the 2009 Research Report. Subaru Australia respectfully submits that the advertisement does neither of these things.

In particular, as is clearly evident on viewing the subject advertisement, the use of the word “corroboree” in the sentence “to pay anything more would highway corroboree” is a simple play on words, to communicate the exceptional value that the MY2015 Subaru Outback represents in a uniquely Australian way (“corroboree” being a uniquely Australian Aboriginal ceremony), and in way intended to elicit humour. In this context, the word “corroboree” has simply been used in place of the word “robbery” as a deliberate pun with respect to the well known phrase “highway robbery”.

It is important to note that, in the phrase “highway robbery”, the word “robbery” is not intended to have its literal meaning (alluding to the criminal act of robbery), but rather is used to denote when something is very expensive. As such there is obviously no intention to associate the word “corroboree” with the literal criminal act of “robbery” (as suggested by one of the complainants), and Subaru Australia submits that this would be abundantly obvious to an average viewer of the advertisement.

Further there is no suggestion that the word “corroboree” is being used in a “discriminatory” or “vilifying” sense. In fact, far from the use of the word in this context being discriminatory or vilifying, the word is used in a manner which is intended to celebrate Aboriginal culture as being uniquely Australian, in line with the broader theme of the Subaru Outback “Australiana” advertising campaign which is meant to emphasise the MY2015 Subaru Outback’s specific suitability for Australian conditions.

Finally, at no stage in the subject advertisement is any person, or section of the community singled out for the purposes of ridicule or for the purposes of encouraging prejudicial or malevolent conduct towards them.

Given all of the foregoing, Subaru Australia submits that there has been no breach of section 2 (and in particular section 2.1) of the AANA Code of Ethics.

Other provisions of Section 2 of the AANA Code of Ethics.

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 complainants’ concerns that the advertisement is offensive to Aborigines in its use of ‘corroborree’.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Board noted the advertisement features a male voiceover with a strong Australian accent describing the features of the new Subaru Outback vehicle and that his closing statement is, “...to pay more for a car this good would be just highway corroborree”.

The Board noted the Macquarie Dictionary definition for corroborree:

- n. An Aboriginal assembly of sacred, festive or warlike character.

The Board noted the advertiser’s response that the use of the word corroborree was intended to be a pun on the phrase ‘highway robbery’ and that the use of an Australian word in place of ‘robbery’ was not intended to imply that there was a link between the real meaning of corroborree and stealing money.

The Board noted that whilst the phrase ‘highway robbery’ itself is part of the common Australian vernacular it would not normally be phrased in rhyming slang as ‘highway corroborree’. The Board noted that corroborree is a serious and central part of Aboriginal culture.

The Board noted it had previously dismissed a complaint about the use of the phrase, “Bugger the dream time...” in case 0248/11 where:

“The Board agreed that some members of the community could be offended by the use of the phrase ‘bugger the dream time’ given the cultural significance of „dream time? to indigenous Australians, however the Board considered that as there is also an AFL match called the

Dream Time, it is reasonable to assume that the advertisement is making a reference to the game and does not denigrate an indigenous culture.”

The Board also noted it had upheld a complaint about a depiction of a key event in the Christian faith in case 448/07 where:

“The Board noted the complainants’ concern that the advertisement vilifies Christians and the Christian faith in its depiction of an ungrateful baby Jesus...

...The Board considered that this depiction was not merely use of a traditional religious image in an unusual context or irreverent manner, and that it amounted to a demeaning take on an important religious belief.”

In the current advertisement the Board noted that corroboree is being used because it rhymes with robbery and that it was chosen because of its Australian connection and rhyming slang rather than any meaning of the word or its relevance to the advertised product. The Board considered that the casual use of a word with such important social and cultural meaning would be likely to be found offensive by Aboriginal people. The Board acknowledged that the intent of the advertisement was not to be offensive but considered that overall the advertisement did depict material in way which discriminates against or vilifies a section of the community on account of their race.

The Board determined that the advertisement did breach Section 2.1 of the Code.

Finding that the advertisement did breach Section 2.1 of the Code the Board upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The relevant material stopped circulation on February 26, 2015.