



CASE REPORT

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| 1. Complaint reference number | 41/09 |
| 2. Advertiser | Panasonic |
| 3. Product | Plasma TV/Wii promotion |
| 4. Type of advertisement | |
| 5. Nature of complaint | Health and safety – section 2.6 |
| 6. Date of determination | Wednesday, 11 February 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement from Panasonic for its plasma television open with two children playing in a yard with a large box. A voice over offers viewers a special deal of a 'large box for the kids to play with' as well as a Wii for "Mum and Dad" when they buy a plasma television. Two adults are seen playing a Wii game indoors and are cheering loudly. The children are then seen poking their heads out of the box when they hear the cheering. The advertisement ends with a company logo on a black screen.

THE COMPLAINT

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

The showing of children playing inside a large cardboard box on the lawn of a dwelling. This could be extremely dangerous were the carton to be hit by a vehicle. See report of double fatality at http://www.ascc.gov.au/NR/rdonlyres/8DBC1CCD-F70C-4C9A-B90D-591ACCABA5A9/0/report_act.pdf. Any encouragement of this behaviour by unsupervised children could possibly prove fatal.

THE ADVERTISER'S RESPONSE

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

Your request by email specifically asks Panasonic to address the complaints made in relation to the advertisement and secondly our response in relation to Section 2 of the Advertise Code of Ethics. We now provide that response to both of these matters below.

3.1 Comments in relation to the complaint

[The complainant] supports his complaint by reference to the "Work related traumatic fatalities in the Australian Capital Territory, 1989-1992" which was published by the National Occupational and Health Safety Commission, Sydney, in 1999. The report contains on page 9 a description of the relevant accident under the heading "Case descriptions of workplace bystander deaths "as follows" "Two bystanders hit by truck Two young children were playing in a cardboard box on a vacant block of land next door next door to where they lived. A truck had just delivered a load of cement nearby took a short cut to gain access to the main street through a vacant block. The driver of the truck was not aware that two children were playing in the cardboard box and the rear wheels of the truck ran over the box, killing the children instantly." [The complainant] view appears to suggest that the Panasonic advertisement, which shows children playing in the yard within their home in a Panasonic Viera box, encourages children to play with boxes which may lead to a situation described in the National Occupational and Health Safety Commission report. We are of the view that the conclusion drawn by [The complainant] with respect to the advertisement by

Panasonic is with all respects an incorrect one. Our belief after careful and thoughtful consideration is based upon the following:

1. The situation described in the National Occupational and Safety Commission report describes an accident that occurred in an uncontrolled environment, which was outside the bounds of the family home in which the children lived, and it would appear where there were no parental supervision or restrictions in place to prevent the movement of the relevant vehicle and the accident occurring. The report only states the outcome but does not include the relevant facts or circumstances leading up to the event.

2. The Panasonic advertisement was not created or actually shot in an uncontrolled environment. The advertisement was shot on location within a controlled area within a normally family home. The area is adequately separated from any public area. It is in all respects a 'backyard' or 'side yard'. (Attached in file images.doc are the photographs of the location which show the scene of the advertisement location). Even without the benefit of the pictures of the residence, the conclusion to be drawn from the advertisement is more than likely to be that the children are 'safe' and are engaging in playful activity within their home surrounds.

3. The advertisement depicts a supervisory environment in which the parents of the children playing in the yard have a line of view or control over their children's activities. The parents are fully aware of the location and nature of the play of the children as depicted in the advertisement. There is no inference of them being 'unsupervised children'

4. The advertisement purpose is not to encourage children to play in a box but to encourage the purchase of the Panasonic Viera Plasma product in order to receive a Wii for the enjoyment of families.

5. The fact that the children are playing in the box is in itself not a method of encouragement explicitly or implicitly. The display of the activity and the words used in the advertisement combined with purpose do not lead to a perception or conclusion that children would be encouraged to play in the box.

For these reasons, we believe that the situation contained in the Panasonic advertisement is therefore significantly different to the accident contained in the National Occupation and Safety Commission report. Further, the advertisement could not be logically inferred to encompass 'any encouragement of this behaviour by unsupervised children' which 'could possibly be fatal'. We further contend that the advertisement contains a parental awareness of children playing in a controlled environment with the upmost safety.

3.2 Application of the Advertisement to Section 2 of the Code We have reviewed Section 2 of the Code of Ethics (including the applicable incorporation of other sections which includes the Advertising and Marketing Communications to Children). The outcome of that review is as follows:

a. The advertisement does not contravene the Code for Advertising and Marketing Communications to Children specifically s2.5 in that it does not convey the use in any way of product in unsafe situations and does not advertise in any way a product which is officially declared unsafe

b. The advertisement does not contravene s2.6 of the Code for Advertising and Marketing Communications to Children as the advertisement does not portray images which may be frightening or distressing to children.

c. Irrespective of the above points a. and b., the advertisement does not contravene the Code for Advertising and Marketing Communications to Children as the advertisement is not directed at children in the first instance because the nature and value of the offer, ie buy a Viera Plasma to receive a Wii, is directed at parents (as depicted in the advertisement).

d. The advertisement does not contravene s2 of the Code of Ethics generally and specifically s2.5 would not apply. It is unlikely that the scenario of children playing in a box within a yard would be considered contrary to the 'health and safety' of prevailing community standards. Children often are inventive and or creative in their playing activities and often use items which are not traditional toys or games for children. Based upon the above review we believe that the advertisement does not breach any of the relevant Advertising Codes.

4. Internal Compliance and Review We would like to advise that Panasonic takes seriously its

obligation to the community and prevailing community expectations and standards. Prior to launching any advertisement Panasonic reviews, under a rigorous process, all ideas and content. In this instance the nature of the advertisement was thoroughly viewed based upon the script (copy attached) which evidences the fact that Panasonic considered it appropriate to conduct the advertisement within a safe location within the bounds of the family home and within the view of the parents. For this reason Panasonic believes it has also conducted the review and assessment in a manner which is reasonable and reflects responsibility bearing in mind child safety and general community standards of care. Panasonic will continue to conduct all reviews of advertisement ideas in this manner and in conjunction with social responsibility and community standards and health and safety concerns. Bearing in mind the points we have made above, we naturally find that the situation described in the National Occupational and Safety Commission report was a tragic one. However, we do not believe that the particular circumstances of this tragic case should be used as a basis for comparison with our advertisement. In particular, we do not believe that the advertisement would encourage behaviour of children.

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 depicted children playing unsupervised in a cardboard box in a front yard and the risk that drivers of vehicles may not be aware children were inside the box, in light of a real-life case involving a similar scenario. The Board considered the application of Section 2.6 of the Code, relating to prevailing community standards on health and safety.

The Board noted the reference to a tragic accident that had occurred in the ACT some years ago. The Board noted the advertiser response and viewed the advertisement itself. The Board noted that the children are depicted playing in a large box and that the advertisement depicts this activity occurring in what appears to be the backyard of a home. The Board noted that children do often play with many household items including boxes.

The Board considered that the image of children playing in a box and the activity itself was not inherently dangerous. The Board considered that this advertisement depicted the activity occurring in a safe location and with parents at home and relatively close to the children.

The Board considered that the advertisement did not depict material that contravened prevailing community standards on health and safety and that it did not breach section 2.5 of the Code. Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.