



CASE REPORT

- | | |
|-------------------------------|---|
| 1. Complaint reference number | 552/08 |
| 2. Advertiser | Pepsico Australia Holdings Pty Ltd |
| 3. Product | Food & Beverages |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Health and safety – section 2.6
Food and Beverage Code – other |
| 6. Date of determination | Wednesday, 21 January 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for Pepsico's Pepsi Max beverage opens with three men on the roof of a house, one with a propellor attached to his back and wearing a helmet. The other two men are winding the propellor. Neighbourhood children are watching from the street. One of the men asks the man with the propellor if he's ready and he says "no" and requests a Pepsi Max. As he takes a sip, the man is shown in a boxing ring sequence, sitting in the corner with a coach spurring him on. This gives the man with the propellor the courage to take off from the rooftop. He flies away from the rooftop with the propellor spinning, then returns and his two friends have to duck to avoid him hitting them. During the flight the words 'Maximum taste no sugar' and an image of a Pepsi Max can appear on the screen.

THE COMPLAINT

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

There is no appropriate safety equipment being worn by any of the men (despite all of them standing at a hazardous height) nor are hazard-reducing measures such as harnesses or safety nets provided. This ad I believes portrays and encourages irresponsible and reckless behaviour and depicts serious breaches of health and safety guidelines. The danger is that young impressionable teenagers watching this ad could be easily persuaded to try this or a similar stunt which could end in serious injury or even death.

Adolescents - males in particular - have been shown to have a poor ability to assess risk and often copy risk-taking behaviour in a bid to impress friends. There are enough bad influences on young men's behaviour without advertisers providing new ones. I believe this ad contravenes the Australian Association of National Advertisers code of ethics section 2 paragraph 2.6 which states that advertisements "shall not depict material contrary to prevailing community standards on health and safety." I believe this ad should be withdrawn or at least carry appropriate strong warnings against attempting similar acts .

THE ADVERTISER'S RESPONSE

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

The 30-second "Rocky" commercial was one of two TV ads that formed part of a globally created locally executed "Maximum Taste, No sugar" campaign that supported the sugar free Pepsi Max brand from 24 August to 30 November 2008. The second TV commercial which formed part of the campaign, called "Braveheart", has been provided as an mpeg and script. The "Maximum Taste, No Sugar" campaign is designed to appeal to the male 25 - 39 year old Pepsi Max target audience and features references to uplifting and inspiring heroes in some of the favourite movies of this target,

including Rocky and Braveheart. In the Pepsi Max commercials, the hero in our commercial fantasises that he is, in fact, the hero in the movie. Pepsi Max becomes critical to the story line when a sip from the can helps our advertising hero to achieve the fantasy of flight. In "Rocky", we open on a scene of three 20-something males standing on a large flat platform on a roof, with one of the men, wearing a helmet, strapped with safety harnesses to a helicopter-like flying apparatus. The hero is being supported by his two mates when we cut to a sports model wearing a gold outfit jumping through the scene, before cutting to our hero in the midst of a fantasy, sitting in the corner of the boxing ring being given support by the trainer figure from the Rocky movie. When our hero takes a sip of Pepsi Max, he then successfully takes off in his flying craft, although is a little out of control and accidentally flies low towards his two mates on the roof, who are able to protect themselves by lying on the platform on the roof. The ad cuts to a super depicting the words "Maximum Taste, No Sugar".

The commercial uses popular movie references and the techniques of suspension of disbelief used in movies in order to engage the target audience through irreverent humour, which supports PepsiCo Australia's research into consumption patterns and rationale for consumption of sugar-free products. The hero in the commercial is clearly wearing safety equipment for his 'fantasy flight' and the advertisement was clearly filmed as per a stunt in a movie and using stunt actors, and yet demonstrates the main characters using a specially erected flat roof platform on which the action takes place. The creative nature of this campaign follows in the context of a well-established 15year history of Pepsi Max advertising featuring humorous, hyper real or fantasy situations that are so 'fantastic' they are clearly not meant or designed for consideration as 'real' or achievable by the consumer.

The commercial has a PG classification in programming viewed by the male 25 - 39 year old target audience including Border Security, The Amazing Race, Criminal Minds, Bones and Thank God You're Here. The campaign, now complete, also featured cinema and online activity featuring the commercials plus product-based outdoor advertising, all of which proved successful for the brand and did not attract complaints via internal systems. Pepsi does not seek to promote concepts, imagery or behaviour that could offend, distress or incite unsafe behaviour or actions. Pepsi seeks to ensure its marketing and business activities reflect prevailing community standards.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code") and the AANA Food and Beverages Advertising and Marketing Communications Code (the "F&B Code").

The Board noted the complainant's concerns that the advertisement promoted unsafe behaviour and considered the application of Section 2.6 of the Code, relating to prevailing community standards on health and safety.

The Board considered the advertisement was humorous and clearly fanciful, particularly through the use of the "dream" sequences where the man with the propellor imagines himself preparing for a boxing match. The Board considered such a depiction was unlikely to encourage copycat behaviour. The Board therefore determined the advertisement did not contravene prevailing community standards on health and safety and found no breach of Section 2.6 of the Code.

The Board also noted that it found no breach of any section of the F&B Code.

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