



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0012-20
2. Advertiser :	Take Two Interactive (2K Games)
3. Product :	Entertainment
4. Type of Advertisement/Media :	TV - Pay
5. Date of Determination	22-Jan-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.3 Violence

DESCRIPTION OF ADVERTISEMENT

This Pay TV advertisement is a Christmas themed promotion for the game Borderlands 3. It features animated Christmas themed sci-fi characters gathered around a cave whilst the music for Silent Night plays. One of the characters in the cave opens a box, and a small robot jumps out and runs off, leaving explosions in his wake.

Scenes of game-play are then shown, including a soldier firing a glowing green gun, a character raising his hands in victory in an arena, a first person view of shooting other characters, a screaming monster, first-person view of firing on a robot, a dinosaur chasing a car, large growing arms picking something up and throwing it into the ground, a female character pulling her arm back and thrusting in forward. The advertisement finishes on a still shot of a robot character with a glowing grenade near his chest, surrounded by roses.

Throughout the advertisement the song 'Silent Night' plays with adapted lyrics:

Silent night, snowy night.

Loot box gift, lovely sight.

Violent night. Mayhem night.

Excellence is our thing,

Borderlands 3 is the king!

THE COMPLAINT



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

As indicated above the animated characters depicted were in engaged in a level of violence which was accompanied by the tune Silent Night [or a variation of the Christmas carol] Maybe I'm simply getting old however I thought the use of a Christmas carol with the animated characters involving violence was insensitive at this time of year. Whilst I'm not entirely religious, for many this time of year [myself included] has a special & holy significance which when we reflect on the true meaning of Christmas - Peace & Good Will to All Man I believe the advertisement is in bad taste. Even though it does display a MA 15+ Rating

SOOOOO OFFENSIVE AND COMPLETELY INAPPROPRIATE. Advertisement on ESPN for a Borderland 'shooter game' using the music of 'Silent Night Holy Night' SHOULD BE BANNED. So disgusted with relentless commercialism using any means to sell while we as a society continually allow the boundaries for respect for communities, faith and cultures to be eroded. MERRY CHRISTMAS.

I am extremely offended that the marketers of this product take a Christmas song, change the lyrics and promote this violent video game! For a number of people Christmas, the songs and traditions are still sacred and should not be misused!

THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concern that the advertisement features inappropriate violence and themes which are disrespectful to Christians.

The Panel viewed the advertisement and noted the advertiser had not provided a response.

The Panel 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 Panel noted the complainants' concern that the advertisement uses sacred Christmas themes, and a Christmas Carol in a way which is offensive to Christians.

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

“Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule.”

The Panel noted that in order to find a breach of Section 2.1 it would need to determine that the advertisement depicted material in a manner that was unfair or less favourable or humiliating or inciting ridicule of a person or section of the community, because of, in this case, religion.

The Panel noted that they had previously considered an advertisement which used a depiction of Jesus nailed to a cross in case 0478/18, in which:

“The Panel noted complainants' concerns about the depiction of Jesus on the cross, which is considered by many members of the community to be cornerstone of Christian faith...The majority of the Panel considered that the depiction of Jesus ignores, or makes light, of the suffering of Jesus in being nailed to the cross, and that Jesus died as a result of the crucifixion...The majority of the Panel considered that many people of the Christian faith would be likely to be offended or upset by the images and humour, in particular as the depictions exceeded what most members of the community would consider to be appropriate humour and that the depictions would be considered to be insensitive and derisive of the pain and suffering that Jesus endured...the Panel considered that this depiction of Jesus on the cross was not merely use of a traditional religious image in an unusual context or irreverent manner, but rather the depiction amounted to a disparaging take on an important religious belief. In this instance the Panel considered that the demeaning take on an important Christian belief did amount to vilification of Christians and the Christian religion.”

Unlike the depiction in case 0478/18, the Panel considered that in the current advertisement the scene being depicted is not clearly about the birth of Jesus Christ. The Panel considered that the characters include a robot dressed as Santa Clause, and that whilst the imagery is generally Christmas themed, it is not a clear depiction of an important tenet of Christian faith.

The Panel noted the complainants' concerns over the use of the song 'silent night' and that this was a song about the birth of Christ and should not be commercialised.

The Panel noted that the advertiser had changed the words to the lyrics to describe the themes of the games. The Panel considered that most members of the community would understand 'Silent Night' to be a Christmas Carol, not a hymn, and that the use of this song was linked to the Christmas promotion in the advertisement.



The Panel acknowledged that people of the Christian faith may not like the use of the music and themes in the advertise however considered that the content of the advertisement itself does not humiliate, intimidate or incites hatred, contempt or ridicule of Christian people, nor does it show Christian people to be treated in an unfair or less favourable manner.

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of religion and determined that the advertisement did not breach Section 2.1 of the Code.

The Panel considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 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 Panel noted the complainants' concerns that the advertisement depicts violence.

The Panel noted the advertisement includes scenes from the video game, including explosions and people shooting weapons.

The Panel considered that there was no blood or gore in the advertisement. The Panel considered that the product advertised was a violent video game, and considered the low level of violence depicted in the advertisement was justifiable in the context of promoting this game.

The Panel considered that the violence portrayed in the advertisement was justifiable in the context of the product being promoted and considered that the advertisement did not breach Section 2.3 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaints.