



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0045-22
2. Advertiser :	Samsung Electronics Australia Pty Ltd
3. Product :	Mobile Phone or SMS
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	9-Mar-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This advertisement promotes the new Samsung S22 phone. The first frame features a Vodafone-red background. The Vodafone quote mark logo appears in the centre of the red screen, and gets gradually bigger to reveal a woman. She is walking along the street, wearing white sneakers and looking at red sneakers in a shop window. As she jumps up onto a bench, she is suddenly wearing the red sneakers. She jumps off the bench and onto a red skateboard which appears out of nowhere, and is suddenly wearing a helmet. As she passes behind a tree and a shop window showing the word 'Scooters' comes into frame, she emerges from the other side of the tree, now riding a red scooter. The footage then cuts to a close up of a Samsung Galaxy S22, zooming into the camera lens before cutting to a frame showing the details of a Vodafone offer to pre-order the 'New Samsung Galaxy S22 Series', again against a Vodafone-red background (the Offer Frame). The final frame is a red background with the super 'Further Together / Vodafone'.

The voiceover accompanying the TVC states:

"This is Kayla. She's with Vodafone and she's skating and scooting to get a new Samsung Galaxy S22. Pre-order and trade in and save up to \$1320 plus get a bonus gift valued at up to \$337. Only at Vodafone."

The text that appears on screen during the Offer Frame states:

New Samsung



Galaxy S22 Series Break the Rules

Trade-in and
Save up to \$1320

When you pre-order & trade-in an eligible device & stay connected to selected plans
There is also a device stating 'PLUS BONUS GIFT valued up to \$337' and the following disclaimer:

Value based on \$720 trade-in credit for Samsung Galaxy S21 Ultra 512GB + 600 bonus credit.

Stay connected to selected plan for length of chosen term.

Powered by Asurion. Ends 3/3. T&C apply.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

The advertisement refers to a person using skateboards and scooters to get to the product, and specifically promotes "breaking the rules" to get the Samsung S22 product range early. It is a serious and dangerous matter and such behaviour targeting such a group in specifically breaking laws is completely inappropriate, dangerous, socially irresponsible, against community interests and should not be allowed.

THE ADVERTISER'S RESPONSE

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

BACKGROUND

Samsung Electronics Australia Pty Ltd (Samsung) would like to thank Ad Standards for the opportunity to respond to the complaint made in relation to a 15-second television commercial relating to the Samsung Galaxy S22 smartphone (TVC). At the outset, we note that, while Samsung was the advertiser named in the complaint and while the TVC related to a Samsung product, the TVC was a Vodafone advertisement. Vodafone is a reseller of Samsung products.

Despite the above, Samsung takes its responsibilities under the AANA Code of Ethics (Code) seriously and has carefully considered the complaint. For the reasons set out below, Samsung is confident that the TVC complies with the Code.

THE COMPLAINT

The complaint describes the TVC as:



'refer[ring] to a person using skateboards and scooters to get to the product, and specifically promot[ing] "breaking the rules" to get the Samsung S22 product range early'.

The complaint goes on to state that:

'It is a serious and dangerous matter and such behaviour targeting such a group in specifically breaking laws is completely inappropriate, dangerous, socially irresponsible, against community interests and should not be allowed.

Ad Standards has identified that, based on its initial assessment of the complaint, section 2.6 of the Code (regarding Prevailing Community Standards on health and safety) may have been breached. Samsung respectfully submits that the TVC complies with Section 2.6 of the Code.

SECTION 2 OF THE CODE

There is no suggestion in the complaint that the TVC raises any issues under Section 2.1 (regarding discrimination or vilification); Section 2.2 (regarding employing sexual appeal in an exploitative or degrading manner); Section 2.3 (regarding the presentation or portrayal of violence); Section 2.4 (regarding sex, sexuality and nudity); Section 2.5 (regarding strong or obscene language); or Section 2.7 (regarding advertising being clearly distinguishable as such) of the Code. Samsung is confident that there are no such issues.

Samsung addresses Section 2.6 of the Code, which is the subject of the complaint, in more detail below.

SECTION 2.6 – HEALTH AND SAFETY

Section 2.6 of the Code states Advertising shall not depict material contrary to Prevailing Community Standards on health and safety. The Code defines 'Prevailing Community Standards' as the community standards determined by the Ad Standards Community Panel as those prevailing at the relevant time in relation to the advertising or marketing communication.

Relevant excerpts from the AANA Code of Ethics Practice Note (the Practice Note) on Section 2.6 include:

Images of unsafe driving, bike riding without helmets or not wearing a seatbelt while driving a motor vehicle are likely to be contrary to prevailing community standards relating to health and safety irrespective of whether such depictions are for the product/service being advertised or are incidental to the product.

...

Advertisements which feature exaggerated or fantastical elements, which are unlikely to be seen as realistic by the relevant audience, are unlikely to be found to be encouraging or condoning unsafe behaviour.

The sequence of Kayla seemingly magically moving from walking to skating to scooting is fantastical in nature and is extremely unlikely to be seen as realistic by the relevant audience. Even if the TVC did not include these fantastical transitions, Kayla is shown wearing a helmet and is clearly in control of the skateboard and scooter at all



times. Kayla does not appear to be anywhere near any pedestrians or other vehicles. There is no suggestion that Kayla is engaging in any unsafe conduct.

We note Vodafone has used the same imagery and voiceovers of Kayla walking, riding and scooting in a number of recent TV commercials, although with different end-frames promoting various Vodafone offers, none of which have been the subject of a complaint.

The complaint does not explain how the TVC is said to be encouraging breaking the law or is in any other way "inappropriate, dangerous, socially irresponsible" or "against community interests". Certainly the elements described above do not encourage or condone any unsafe behaviour.

It appears that the real basis of the complaint is the use of the tagline 'Break the Rules', which appears after the skateboard and scooter footage, on the Offer Screen. Having regard to the sequence of the TVC, the use of this tagline is unlikely to be interpreted as encouraging customers to break any rules regarding the use of skateboards or scooters in order to obtain the Samsung Galaxy S22 Series early. The tagline is part of a broader Samsung Galaxy S22 campaign. Examples of how the tagline has been used elsewhere include "breaking the rules of what is possible" and "cutting edge features that ... break the rules of mobile innovation". The tagline is about how the Samsung Galaxy S22 technology is so advanced that it almost defies belief and "breaks the rules" of smartphone innovation. The tagline is not directed towards encouraging people to break any rules or laws to get the product early, and Samsung does not consider that the relevant audience would view it as such.

The Determination Summary for Section 2.6 of the Code states that the Community Panel can dismiss health and safety concerns if the imagery has elements of fantasy and are obviously unlikely or fictitious. For example, in case number 0318-20 (available at <https://adstandards.com.au/sites/default/files/reports/0318-20.pdf>), complaints about a Nestle television advertisement showing an older man performing stunts with a skim board (and said to encourage copycat dangerous behaviour) were dismissed. The Community Panel took into account the highly stylised and exaggerated, and obviously edited nature of the advertisement. The TVC is similarly very obviously edited, and the depiction of a skateboard and scooter is intended to be humorous and part of the word play in the voice over: This is Kayla. She's with Vodafone and she's skating and scooting to get a new Samsung Galaxy S22."

CONCLUSION

For the reasons set out above, Samsung does not believe that the TVC is in breach of Section 2 of the Code in any respect and is firmly of the view that the TVC is in line with community standards and expectations more broadly. Accordingly, Samsung respectfully submits that the complaint should be dismissed.

In any event, Samsung understands from Vodafone that the TVC is no longer in circulation and that Vodafone will not use the 'Break the Rules' tagline in any future TVCs.



THE DETERMINATION

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

The Panel noted the complainant's concern that the advertisement promotes breaking rules to obtain the product, and such an encouragement is inappropriate, dangerous, socially irresponsible and against community interests.

The Panel viewed the advertisement and noted the advertiser's response.

Section 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

Depiction of skateboard/e-scooter

The Panel noted that the woman was depicted using the skateboard and e-scooter in a safe manner. She is shown wearing appropriate safety gear and is using the products on a footpath.

The Panel considered that most viewers would not interpret this advertisement as encouraging or condoning the use of such products in an unsafe manner.

Breaking the rules

The Panel considered that the general concept of breaking rules may be considered to be anti-social behaviour, however noted that it can only consider complaints within the provisions of the Code.

The Panel noted that the slogan for the new range of Samsung products is "break the rules" and that the slogan is used in a variety of advertisements.

The Panel noted that the voiceover makes no reference to breaking the rules, and noted that the woman is not shown to be breaking any rules. The Panel considered that there is not a strong link between the woman's legal and safe actions and the concept of breaking rules.

The Panel considered that most members of the community would not find the advertisement to depict unsafe behaviour.

Section 2.6 conclusion

The Panel considered that the advertisement did not contain material contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

Conclusion



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