



Ad Standards Community Panel
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Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0055/19
2	Advertiser	Samsung Electronics Aust Pty Ltd
3	Product	Telecommunications
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	06/03/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features various futuristic scenarios for what Samsung phones and tablets could do, including displaying images on windows and mirrors, allowing someone to design and give a tattoo to a woman remotely and a couple viewing a real-time ultrasound of their unborn child.

THE COMPLAINT

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

The addition of this in the add shows that smartphones could safely be used in place of seeing your doctor and lead to serious consequences.

THE ADVERTISER'S RESPONSE

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





Samsung Electronics Australia Pty Ltd: Complaint against Samsung Television Commercial, "Create the Future" (Ref number 0055/19)

Background

We refer to the consumer complaint (Complaint) submitted with respect to Samsung Electronics Australia Pty Ltd's (Samsung) "Create the Future" television commercial.

The Complaint relates to the segment of the "Create the Future" television commercial that depicts a couple using a smartphone connected to an accessory to conduct an ultrasound. In particular, the complainant states that this segment of the television commercial "shows that smartphones could safely be used in place of seeing your doctor and lead to serious consequences."

The complainant alleges that the television commercial contravenes clause 2.6 of the AANA Code of Ethics (Code), that is, content that is contrary to Prevailing Community Standards on health and safety. Pursuant to the Code, Prevailing Community Standards means the community standards determined by the Ad Standards Community Panel as those prevailing at the relevant time in relation to Advertising or Marketing Communications.

For the reasons set out in Part E below, Samsung considers that the relevant segment of the television commercial (or any other part of it) does not contravene clause 2.6 or any other part of Section 2 of the Code.

Description of the advertisement

The "Create the Future" television commercial is part of Samsung's campaign to celebrate the 10th anniversary of Samsung Galaxy Smartphones. It depicts several scenes that illustrate the potential for the continuing, innovative use of technology to shape our future.

A summary of the rationale for the television commercial is summarised below.

(a) What does the future hold? Back in the 1950s, Doris Day answered that question with a simple lyric: "Que será, será, whatever will be, will be." Her cheerful brand of fatalism encouraged a generation to let go of their worries and let the future unfold as it may. As the world now enters a new era of uncertainty, Samsung refuses to accept those laissez-faire lyrics, with a promise to empower people to create their own future.

(b) In the spirit of this approach, Samsung has launched its own brand campaign to kick off a year that will both celebrate the 10th anniversary of Galaxy smartphones and set the foundation for the next decade of new, innovative and ground breaking



products.

(c) The campaign flips the carefree lyrics of the classic song on its head by juxtaposing them with Samsung's bold leadership stance: What we create today empowers you to create the future. The campaign builds on Samsung's "Do What You Can't" philosophy in a video that highlights the potential for breakthrough technologies – including seamless multi-device experiences, artificial intelligence, and radical new displays – and reveals Samsung's 5G products and foldable display technology to be launched later this year.

The relevant segment of the television commercial, the subject of the Complaint, is depicted between seconds 37 and 45.

Advertising Code of Conduct

Samsung considers that the relevant segment of the television commercial does not contravene any part of the Code.

First, sections 2.1 to 2.5 and 2.7 of the Code are not applicable, as the television commercial does not:

(a) discriminate against or vilify a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief;

(b) employ sexual appeal;

(c) present or portray violence (and to the extent that it may be perceived to portray violence, it is justifiable in the context of the product advertised);

(d) treat sex, sexuality or nudity in an insensitive manner; and

(e) use strong or obscene language; and

(f) is clearly distinguishable as an Advertising or Marketing Communication.

Secondly, the television commercial, focusing in particular on the segment the subject of the Complaint, does not depict material that is contrary to section 2.6 of the Code.

(a) The television commercial is a stylised and illustrative depiction of the future capability of innovative technology. It is not intended to be, and is not, a literal depiction of current technology.

(b) To the extent that there is any doubt about the intended message, a clear, legible



disclaimer appears on the screen, at the commencement of the television commercial, which states that "[a]ll scenarios are fictionalised and simulated. For illustrative purposes only."

(c) Samsung considers that there is a general community understanding that expecting parents will consult a medical professional during the term of a pregnancy, and that there is no reasonable substitute for the services and advice of a medical professional.

(d) The relevant segment of the television commercial does not suggest that any advancement in technology should be used to the exclusion of medical advice from a medical professional. Nor could it reasonably be said that Samsung is discouraging consumers from seeking medical attention or encouraging users to use a smartphone in place of a doctor. On that basis, the relevant segment does not fall short of any Prevailing Community Standard with respect to health and safety.

(e) The overall message or impression of the television commercial (including the relevant segment the subject of the Complaint) is that there is significant potential for further technological advancement, and that innovation will empower individuals and enrich our lives. It illustrates that there a myriad possibilities.

(f) One such possibility may be the ability to conduct an ultrasound using a mobile device. Considered in this context, the television commercial celebrates innovation and empowerment through technology, but does not go so far as to suggest that this possibility should or need be a substitute for professional medical advice.

(g) Contrary to the complainant's concerns, the possibility, in future, of conducting an ultrasound using technology such as a smartphone is more likely to increase health and safety by encouraging expecting parents to seek medical attention, as required.

Conclusion

For the reasons outlined above, Samsung considers the relevant segment of the television commercial (or any other part of it) does not contravene clause 2.6 or any other part of Section 2 of the Code, and respectfully requests that the Panel dismiss the Complaint.

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 complainant's concern that the advertisement contained material which went against prevailing community standards on health and safety



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

The Panel considered whether the advertisement was in breach of Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Panel noted the complainant's concern that the advertisement suggests that smartphones could safely be used as an ultrasound device in place of seeing your doctor and lead to serious consequences.

The Panel note the advertisement features a number of futuristic scenarios for what Samsung phones could do in the future, including a scene where a couple is using a phone to see an ultrasound image of their unborn child.

The Panel noted the advertiser's response that the advertisement is highly stylised to illustrate future capabilities of products, and are not a literal depiction of technology. The Panel also noted the advertiser's response that the advertisement does not suggest that any advancement in technology should be used to the exclusion of medical advice from a medical professional.

The Panel considered that the advertisement contains clearly fantastical scenes and depicts technology that does not currently exist, such as the ultrasound device.

The Panel considered that they have previously considered an advertisement which contained fantastical scenarios to not breach this section of the Code in case 0231/17, in which:

"The Board noted the futuristic nature of the advertisement with the focus on technological advancements and possibilities for the future as Telstra's networks expand and considered that the manner in which the driverless car is shown is in keeping with the futuristic tone of the advertisement and the focus on what might be possible in the future. The Board acknowledged that taking both hands off the steering wheel of a moving vehicle would be a breach of the Road Rules but considered that the depiction in the advertisement is clearly in the context of what might be possible in the future rather than a depiction of what you should do now.

Consistent with the previous case, the Panel considered that the advertisement was clearly fantasy and was in the context of what might be possible in the future rather than a depiction of what is possible now.

The Panel also considered that the advertisement did not contain any suggestion that pregnant women should not seek appropriate medical care or that this device could



be used in place of professional medical care. Further, the Panel considered that the device used for the ultrasound does not currently exist and therefore could not be used in a manner which was inappropriate or unsafe.

The Panel considered that the advertisement did not depict material contrary to prevailing community standards on health and safety and did not breach Section 2.6 of the Code.

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

INDEPENDENT REVIEWER'S RECOMMENDATION

THE DETERMINATION ON REVIEW

ADVERTISER'S RESPONSE TO IR DETERMINATION

