



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0059-21</b>
<b>2. Advertiser :</b>	<b>Binge</b>
<b>3. Product :</b>	<b>Entertainment</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Free to Air</b>
<b>5. Date of Determination</b>	<b>24-Mar-2021</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.3 Violence

### DESCRIPTION OF ADVERTISEMENT

This television advertisement features footage from the show 'The Walking Dead'. The Advertisement opens with a man walking with a crossbow, followed by a group of zombies walking towards the camera, a woman running with a gun, a person riding a horse down an empty road, a man walking with a gun, a door being kicked out, barbed wire being wrapped around a piece of timber, and ends with a close-up of a man's face with flames onscreen. Several of these scenes are obscured by onscreen text promoting the return of The Walking Dead.

### THE COMPLAINT

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

*The Cube is a safe, family friendly TV show - polar opposites of what Binge are encouraging and enticing people to watch The Walking Dead, especially not ideal or wanted for my 9 year old. He could not bear to see the ad as it scared him. A person running with a gun, another with a crossbow and zombies.*

*This ad showed twice prior to 7pm on free to air tv (channel 80/WIN), while my children were watching. They are aged 6 and 9 and will probably suffer from nightmares now. We should be able to watch tv at that time, safe from horror. At least*



*with the news we can switch the channel off when we hear what is coming, but with this ad, the images showed up quickly with very little warning. I have no objection to the show "The Walking Dead" (I used to watch it myself), what I object to is the horror images showing at a time when children are likely to be watching tv. That time slot is not appropriate to be showing horror content.*

## **THE ADVERTISER'S RESPONSE**

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

*We refer to the Complaints made against Binge which were received from Ad Standards on 4 March 2021 and 16 March 2021. Foxtel Management Pty Limited (Foxtel) provides this response on behalf of Binge.*

### *Description of the Advertisement*

*From the information provided by Ad Standards, we understand that the Complaints relate to a 15 second advertisement promoting the return of the television series, The Walking Dead, which is available to watch on Binge (Advertisement).*

*The Advertisement contains footage from The Walking Dead, a survival adventure series that explores the onset of a zombie apocalypse. The Advertisement opens with a man walking with a crossbow, followed by a group of zombies walking towards the camera, a woman running with a gun, a person riding a horse down an empty road, a man walking with a gun, a door being kicked out, barbed wire being wrapped around a piece of timber, and ends with a close-up of a man's face with flames onscreen. Several of these scenes are obscured by onscreen text promoting the return of The Walking Dead.*

*The Advertisement was created and produced internally by Foxtel. Mindshare of 13/65 Berry Street, North Sydney, NSW, 2060 was the media agency responsible for placing the Advertisement. The Advertisement was scheduled for broadcast on free-to-air, Facebook, Twitter, News.com.au and Flicks.com.au between 1 March 2021 and 14 March 2021. The Advertisement was approved by ClearAds (ClearAds number H8NCHEPA) for broadcast on free-to-air channels and was assigned the "H" placement code.*

*The script for the Advertisement is provided in Annexure 1 and a digital copy of the Advertisement is available here: <https://www.youtube.com/watch?v=BFmFRDYFUN>.*

### *The Complaints*

*The Complaints include the allegations that "The Cube is a safe, family friendly TV show – polar opposites of what Binge are encouraging and enticing people to watch The Walking Dead, especially not ideal or wanted for my 9 year old. He could not bear*



*to see the ad as it scared him. A person running with a gun, another with a crossbow and zombies” and that the Advertisement was broadcast during The Project at approximately 6.35pm and 6.42pm, and that “time slot is not appropriate to be showing horror content.”*

*Applicable provisions of the AANA Code of Ethics*

### *Section 2.3*

*Ad Standards has raised Section 2.3 of the Australian Association of National Advertisers Code of Ethics (Code) as the applicable provision in the context of the Complaints.*

*Section 2.3 requires that:*

*“Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised.”*

*The Advertisement contains scenes from the television series, The Walking Dead. Foxtel submits that these scenes, which are fleeting, and the sound effects used in the Advertisement, are mild in impact and unlikely to cause alarm and distress to the reasonable viewer. The Advertisement does not involve any confrontation with a direct threat to any person; and shows no explicit scenes of gore or scenes which are of a highly violent and graphic nature. We consider that the reasonable viewer would understand that the scenes depicted in the Advertisement are clearly unrealistic and fictional scenarios. Referring to the AANA Code of Ethics Practice Note, Foxtel does not consider that the content of the Advertisement falls within the stated guidelines as to the definition of “violence”. The guidelines refer to a range of other depictions, including “sexual violence”, “violence against animals” and advertising messages “condoning or encouraging suicide”, and it is Foxtel’s view that the actions depicted within the Advertisement do not constitute violence.*

*If Ad Standards determined that the Advertisement depicted “violence”, Foxtel’s view is that the scenes are justifiable in the context of the product being advertised, namely the availability of the television series, The Walking Dead, on Binge. The visual representations within the Advertisement are from the television series and are a necessary and accurate indicator of the characters in the series and the themes that are explored. Foxtel submits that it is reasonable that the advertising materials have been produced to align with the series’ narrative and as such, any depiction of violence within the Advertisement is justifiable within the context of the product being advertised.*

*In considering whether violence depicted in an advertisement is justifiable, Foxtel acknowledges that Ad Standards may have regard to the audience of the advertisement. The Advertisement was approved by ClearAds, who gave the Advertisement an approval rating of “H”. ClearAds advises that “H” classified advertisements may be broadcast at any time of day, except during or adjacent to preschool and children’s programs, with care taken when placing in programs likely to*



*attract a substantial child audience. While the obligation for the scheduling of advertisements on commercial television sits with the relevant commercial television broadcaster, we understand that the Advertisement has been scheduled in accordance with this approval rating, including during *The Cube* and *The Project*, which are not programs which would be considered preschool or children's programs.*

*Referring to the AANA Code of Ethics Practice Note, where there is a broad audience which includes children, advertising for violent or horror movies or television shows should take care not include images that give the impression that a character has just committed violence against someone (e.g. a weapon with dripping blood), was the victim of violence (e.g. freshly severed limbs) or is about to commit violence against someone (e.g. gum aimed directly at a person or the viewer). In the event the Advertisement was viewed by a broad audience, Foxtel submits that while the Advertisement contained fleeting scenes from the television series, *The Walking Dead*, the scenes did not contain any of the aforesaid depictions of violence, and was therefore suitable for a broad audience.*

*Foxtel notes Ad Standards has previously dismissed similar complaints. For example, Ad Standards did not consider that an advertisement for the horror film, *Relic*, presented or portrayed violence (case number 0229-20). While Ad Standards acknowledged that there was a menacing theme which some viewers may find uncomfortable, it considered that this theme was directly relevant to the film promotion. Overall, Ad Standards considered that the tone of this advertisement was frightening and contained a suggestion of violence but considered that the level of menace was not excessive in the context of an advertisement for a horror movie, and was justifiable in the context of the product advertised.*

*For the above reasons, we submit that there is no depiction of violence as understood by most members of the community in the Advertisement and, accordingly, no breach of Section 2.3. Further, we submit that the Advertisement does not breach any other provisions of the Code.*

*Foxtel takes the Complaints very seriously and regrets any offence caused to the complainants or anyone else.*

## **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 complainants' concerns that the advertisement depicts and promotes inappropriate scenes showing weapons and zombies, and uses inappropriate language at a time when children can view the advertisement.

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



**Section 2.3 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 Practice Note for this section of the Code which states *“Graphic depictions of violence or a strong suggestion of menace have been found to present violence in an unacceptable manner especially when visible to a broad audience which includes children. For example, advertising for violent or horror movies, tv shows or video games should take care not to include images that give the impression that a character has just committed violence against someone (for example, a weapon with dripping blood), was the victim of violence (for example, freshly severed limbs) or is about to commit violence against someone (for example, gun aimed directly at a person or the viewer) where there is a broad audience which includes children”*.

**Does the advertisement contain violence?**

The Panel noted that the advertisement does feature the characters holding weapons such as a crossbow and a firearm, and shows a character wrapping barbed wire around a bat. The Panel noted that the objects are not used towards any person or object in the advertisement however considered that the depiction of the objects may be considered to imply violence.

**Is the violence portrayed justifiable in the context of the product or service advertised?**

The Panel noted that the advertisement was promoting a television program. The Panel noted that ‘The Walking Dead’ is a horror-drama program that contains violent action sequences and graphic imagery.

The Panel considered that the weapons depicted in the advertisement are not the focus of the scenes shown. The crossbow is shown on a man’s back, the firearm is being held as a woman runs, and the bat is being held loosely at a man’s side. The Panel noted that a close-up scene does show barbed wire being wrapped around a bat, however the Panel considered that large text on screen covers a lot of the image and children would not understand the context.

The Panel noted that the advertisement does depict a scene showing zombies, however noted that the zombies are shown at a distance and their features are not clear.

The Panel considered that the advertisement is highly stylised and does not show any blood or graphic imagery and the Panel noted that the advertisement does not show any weapon being used towards a person or object. The Panel considered that the violence in the advertisement would be considered by most members of the community to be mild.

The Panel noted that the advertised product is a television program. The Panel noted that ‘The Walking Dead’ is a horror-drama program that contains violent action



sequences and graphic imagery, and noted that the scenes shown are scenes from the program.

### **Section 2.3 conclusion**

In the Panel's view the advertisement did portray violence that was justifiable in the context of the product being advertised and did not breach Section 2.3 of the Code.

**Section 2.5: Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.**

The Panel noted that the advertisement uses the word "bloody". The Panel considered that the word is not used in a manner that is aggressive or demeaning.

The Panel considered that "bloody" is a word common in everyday vernacular. The Panel considered that most members of the community would consider that the language was not inappropriate and was not strong or obscene.

### **Section 2.5 Conclusion**

The Panel determined that the advertisement did not breach Section 2.5 of the Code.

### **Conclusion**

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