



Case Report

1	Case Number	0163/11
2	Advertiser	Funtastic Limited
3	Product	Toys & Games
4	Type of Advertisement / media	TV
5	Date of Determination	25/05/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

2.2 - Violence Hooliganism-vandalism-graffiti

DESCRIPTION OF THE ADVERTISEMENT

Various youths are shown riding scooters which have chalk attached to the back of them so you can make marks whilst riding. The voiceover talks about the graffiti scooter and the text on screen reads "Stunts performed by professionals."

THE COMPLAINT

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

The advert was totally inappropriate and encourages children to graffiti. It is setting a bad example and encouraging children to break the law. It should be removed straight away from TV and the company should be fined or made to pay for cleaning up graffiti from our streets.

THE ADVERTISER'S RESPONSE

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

We have considered the complaint taking into account the following advertising standards:

1) the Commercial Television Industry Code of Practice; and

2) *the AANA Code for Advertising and Marketing Communications to Children, (together, the Codes).*

Does the advertisement encourage illegal graffiti?

The complaint states that our TVC encourages children to graffiti and is setting a bad example by encouraging children to break the law. We note that an objective of the Codes is to ensure that television commercials comply with Federal and State law.

Our position is that there is a significant difference between: (1) the markings which are produced when the Razor Graffiti Scooter is used; and (2) the unsightly and illegal tagging and other forms of graffiti which are considered illegal in Australia.

Various pieces of State and Territory legislation in Australia provide that if any 'markings' appearing on public places are 'readily removable by dry cloth', or the 'use of soapy water and cloth', then those markings are not considered illegal graffiti. Based on this, it is our view that the chalk markings created by the Razor Graffiti Scooter are not illegal in Australia because such markings are readily removable from pavements, and as a result, our TVC is not encouraging illegal activity.

Furthermore, the phraseology used in the TVC such "Colour your ride" and "...throws down an awesome trail of colour behind every ride..." does not represent wording which could be seen to be encouraging any form of illegal graffiti such as the intentional defacement of public property by use of spray cans.

Compliance with the Codes

We are confident that our TVC meets all relevant standards enforced by the Codes:

- there is no sexualisation prevalent in the TVC;*
- there is no imagery depicting unsafe use of the product – the riders in the TVC are wearing appropriate safety attire such as helmets and knee pads;*
- there are no images which are unduly frightening or distressing to children;*
- the TVC does not undermine parental authority;*
- there is no mention of price;*
- the one qualifying statement appearing in the TVC, being: "STUNTS PERFORMED BY PROFESSIONALS", is displayed conspicuously and is easily understandable by the target; and*
- there is no reference, in any way, to alcohol.*

The remaining standards referring to "Competitions", "Popular Personalities", "Premiums", "Privacy" and "Food and Beverages" are not applicable to our TVC.

Conclusion

The TVC does not encourage children to break the law because the markings produced by the Razor Graffiti Scooter are not deemed illegal graffiti by Australian law. We believe our TVC is compliant with the Codes and as a result, there is no valid reason for prohibiting the TVC from being aired.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted the complainants' concerns that the advertisement encourages vandalism and graffiti and ultimately encouraging children to break the law.

The Board reviewed the advertisement and noted the advertiser's response.

The Board considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code 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 Board noted that the advertisement shows children riding their 'Razor Graffiti' scooters which as part of the product allow chalk lines to be drawn on the ground following the scooter.

The Board considered that the advertisement is not endorsing the defacing of public places. The Board considered that graffiti per se is socially unacceptable and costly and that the graffiti of public property could be costly and upset many members of the community. The Board noted however that the chalk bar attached to the scooter is not intended to encourage graffiti but forms part of the product itself and that chalk is a substance that very quickly washes away and is not lasting. The Board considered that the image of children marking surfaces with chalk is not a depiction of graffiti.

The Board considered that the advertisement did not portray violence that was unjustifiable in the context of the product being advertised.

Finding that the advertisement did not breach Section 2.2 of the Code, the Board dismissed the complaints.