



**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

<b>1. Case Number :</b>	<b>0174-21</b>
<b>2. Advertiser :</b>	<b>Club-Mate Australia</b>
<b>3. Product :</b>	<b>Food/Bev Groceries</b>
<b>4. Type of Advertisement/Media :</b>	<b>Cinema</b>
<b>5. Date of Determination</b>	<b>23-Jun-2021</b>
<b>6. DETERMINATION :</b>	<b>Upheld – Modified or Discontinued</b>

### ISSUES RAISED

AANA Code of Ethics\2.3 Violence

### DESCRIPTION OF ADVERTISEMENT

This cinema advertisement depicts a man coming home and seeing his fridge is open and a knife is missing. He withdraws a firearm and creeps through the house, walking into a room where a large group of people yell "surprise" and he realises it is a party. He relaxes, and another man hands him a drink. He looks at the drink and his expression becomes dismayed and he raises his firearm towards a person. The screen changes to an image of the drink as a gunshot sound is heard.

### THE COMPLAINT

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

*Overly violent.*

### THE ADVERTISER'S RESPONSE

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

*Thanks for giving us the opportunity to reply to the complaint made about our cinema advertisement. We are a small business and never did any advertising before. Earlier this year the German film festival approached us and asked if we want to sponsor this years event. In return we had the opportunity to show a Club Mate advertisement.*



*Since we had no resources to create an advertisement on such short notice, we remembered that there existed a spot. The spot was made by a film student at the Filmhochschule Baden-Wuerttemberg (Film Academy) in 2017 as part of his Bachelor degree. We contacted the director and he was happy to have his spot played at the German Film Festival.*

*In regards to AANA Code of Ethics I want to point out that our spot is neither discriminating or degrading nor is any sex or nudity to be seen. There is no coarse language used, the only words spoken are "Ueberraschung (Surprise)" and "Club Mate. Better bring the original".*

*It is distinguishable as advertisement and we can not identify any health or safety related issues.*

*Setting:*

*The ad is exclusively played at participating cinemas of the German Film Festival as part of the German Film Festival. The spot is not shown on TV or any other media. The spot is not played at any other cinemas or cinema sessions but the sessions of the German Film Festival (25/5 - 4/7)*

*The tickets for the German Film Festival are 18+. No minors or kids will ever see our advertisement. We thought it would be great to give a young German director the chance to have his spot shown at the German Film Festival. We expected that adults that are clearly interested in German Films would understand the underlying German humor of the spot, mocking the German film industry on the one hand as well as the loyalty of Club Mate drinkers on the other hand. The insinuation that someone would shoot his friends over the wrong drink seemed to absurd to us that anyone would take it serious. It is not much more then an insinuation, as you don't see any one shooting or getting shot.*

*We are very sorry if anyone felt offended by the spot or even thought we would in any way support violence. Club Mate Australia condemns any form of violence!*

## **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 depicts violence.

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

### **Section 2.3: Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised**

The Panel noted that the Practice Note to the Code states:



*“Although the depiction of violence in an advertisement may be relevant to the story being told in the advertisement, any violence must also be justifiable in the context of the product being advertised, or else will be in breach of this section of the Code.”*

The Panel noted that the advertisement does not actually depict anyone being shot, however there is a strong suggestion that that is what has occurred at the end of the advertisement. The Panel considered that the change in the demeanour of the man, the gun being pointed directly at someone, the sound of the gunshot and the splattering of blood in the window in the background combined to create a high level of threat and violence in the advertisement.

The Panel noted that the advertised product was a beverage and that there was no link between this product and gun violence.

The Panel determined that the advertisement did contain a strong suggestion that the man had shot someone, and that this violence was not justifiable in the context of advertising a beverage.

### **Section 2.3 Conclusion**

The Panel determined that the advertisement did present or portray violence which was not justifiable in the context of the product or service advertised and did breach Section 2.3 of the Code.

### **Conclusion**

Finding that the advertisement did breach Section 2.3 of the Code, the Panel upheld the complaint.

### **THE ADVERTISER’S RESPONSE TO DETERMINATION**

Our advertisement has been discontinued as of 5<sup>th</sup> July 2021.