



Case Report

1	Case Number	0215/13
2	Advertiser	Boost Tel Pty Ltd
3	Product	Mobile Phone or SMS
4	Type of Advertisement / media	Internet
5	Date of Determination	10/07/2013
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

2.3 - Violence Causes alarm and distress

DESCRIPTION OF THE ADVERTISEMENT

Complainant description: A person on a motorbike goes to get petrol during a zombie apocalypse. He turns on a radio and we hear a baby crying. The man then cuts down and shoots the zombies with an arrow, and drives over them.

THE COMPLAINT

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

I am shocked that YouTube allows violent and explicit ads on music videos which are harmless in content, and when I have never searched for anything related to zombies or horror, neither on YouTube nor on Google. I don't understand why it would bring up such an ad. I am worried that if a child was wanting to listen to some music on YouTube, this ad would come up and being curious would sit and watch it, or would not see the warning and the option to skip it, and would therefore be exposed to very violent, bloody and horrifying content which has not even been rated or censored. Of course I had the option of looking away, but I was so shocked I didn't really believe I was seeing it. I also there is only a very weak link to the product being sold and the level of violence and gore is completely needless. I never watch horror or zombie movies because it makes me sick, so why should I have to see this content on a music video? This sort of content does not belong on YouTube without having some sort of filter option. Usually videos with explicit content require people to be logged in as a user and there is an age limit, whereas I was watching this video without being logged in to Google and could have been anybody, including a child wanting to listen to a

song.

I hope you can do something about this. Thank you very much for looking into this! This ad pops up at random at the beginning of videos on youtube. It contains horror and excessive violence that scared the crap out of my son. I dont like having him see things like that.

THE ADVERTISER'S RESPONSE

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

The purpose of this letter is to provide an initial response to the Complaint which refers to two complaints received by the Advertising Standards Bureau (ASB) relating to an advertisement placed on the internet by our advertising agency.

1. What do the complaints relate to?

Both complaints relate to the fact that the advertisement, which portrays violence, pops up on music videos without the viewer making any conscious decision to view the advertisement, even though there is an express warning about the content of the advertisement at the beginning of the advertisement.

We have considered the Complaint and the advertisement in question in light of the provisions of the AANA Code of Ethics (Code). With respect, whilst you have stated that the issues raised relate to violence causes alarm and distress pursuant to article 2.3 of the Code, we submit that the true nature of each of the two complaints is not the violence portrayed but the fact that the advertisement popped up without the viewer making a voluntary decision to view the advertisement.

2. Boost did not authorise the display of the uncensored commercial in the manner alleged?

At the outset we note that the manner in which the advertisement was displayed was not as a result of any authorisation or approval by Boost Tel Pty Limited (Boost). Whilst Boost is responsible for commissioning the production and distribution of the advertisement, it at no stage approved or requested that the advertisement appear in the manner that it is alleged to have been displayed to these viewers.

3. What steps did Boost take to ensure that the uncensored advertisement was viewed by the appropriate willing viewer?

The advertisement is intended only for the internet/YouTube medium and Boost has never had any intention of showing this level of violence on TV.

Boost has spent much time and money to ensure that even though displayed on the internet, there are smaller, cut down versions of the uncensored version of the advertisement for TV that do not portray any violence at all, and these are acceptable to the wider TV audience.

However, with respect to the audience of the YouTube medium, this advertisement is appropriate for the mature audience it is targeted towards. We note that the advertisement

was approved via Google's own approval process in this regard.

We and our advertising agency took many steps to ensure that the advertisement:

(a) was targeted only towards its intended audience in an appropriate medium, and

(b) took advantage of YouTube's technology in order to ensure this was targeted only towards its intended audience.

In this respect we note that:

Firstly, the advertisement was "age-gated" in accordance with YouTube's policies so that it only appears to viewers that are logged in to their accounts whilst viewing YouTube clips, and whose demographic information as provided to YouTube identifies them as being over the age of 18.

Any user where their age was listed as "unknown", due to having not entered this information in their profile, or not being logged in to their account, will not have received the advertisement as we programmed the advertisement specifically to ignore these viewers. We note that one of the complainants states that they were able to view the advertisement without being logged in to their account. However that this is not possible as we have explained above, and we suspect that the user may have been logged in without realising they were, as log-ins for services such as Google and YouTube are often automatic unless the user takes specific steps to log out.

Secondly, YouTube allows us to target the advertisement against specific categories of content. We confirm that the advertisement was only targeted in the "Entertainment", "Movies" and "Gaming" categories and we did not specifically target "Family" and other child-related categories.

Thirdly, Boost ensured that a large and clear warning appeared for approximately 5 seconds at the beginning of the advertisement. The warning advises the potential viewer of the graphic nature of the uncensored advertisement, and gives the viewer the option to either skip it, or to click a link for the "censored version".

The censored version comprises much of the same footage, except that all the violent imagery has been replaced with images of non-threatening fluffy animals.

Had Boost not been conscious of the Code and relevant community standards, it would not have gone to the time and cost of having prepared and issued a censored version of the advertisement.

The name of the advertisement itself also makes the graphic nature of the content very clear. Therefore viewers are given ample opportunity to consider whether they want to avoid the advertisement based on its content, and are provided with the means to do so.

Further, the violent scenes of the uncensored version of the advertisement do not occur until very far into the advertisement's run-time, which also provides viewers with further opportunity to recognise the nature of the advertisement and skip it. The 'Skip Ad' option remains visible on the screen throughout.

Accordingly, as you can see the advertisement Boost spent a lot of time and money preparing commercials that would appeal to a particular audience and took significant steps to:

- (a) give the viewer the choice of whether to view the uncensored version or the censored version of the advertisement;*
- (b) made it clear both from the warning and the title of the content of the advertisement; and*
- (c) we put in as many safeguards as possible to ensure that the uncensored versions of the advertisement was only seen by its target audience.*

Since the Complaint has come to Boost's attention, Boost has instructed its advertising agency to ensure that the uncensored version of the advertisement will no longer appear as a "pre-roll/pop up" on YouTube in any circumstances .

4. Things that Boost cannot control

Boost cannot control what individual viewers do with their accounts. In this regard, we note that one of the complainants stated that they were concerned that their child saw the advertisement.

The Board has recently observed in Case 0158/13 Advanced Medical Institute that "prevailing community standards would suggest that children are closely monitored by a responsible adult when viewing the internet, especially websites such as YouTube".

Accordingly, most viewers would understand that it is their responsibility to monitor children's viewing activities with regards to YouTube or the internet generally. In the case of this uncensored advertisement, a responsible adult would have had ample opportunity to view the warning message and determine the nature of the advertisement, and act on it appropriately to either skip the advertisement or click on the "censored version" link.

5. Summary in relation to the manner in which the uncensored commercial, as authorized by Boost was displayed

Accordingly, we submit that the uncensored advertisement is presented in a way that is not contrary to prevailing community standards on health and safety. It is appropriate for the medium in which it was intended and is targeted towards a mature audience only, with many safeguards in place to ensure the content is delivered to its intended audience.

6. In relation to Article 2.3 was Boost's presentation or portrayal of violence justifiable in the context of the product or service advertised?

We have carefully considered the Code, and have assessed the provisions against the content of this advertisement. We submit that the uncensored advertisement does not breach the Code on any grounds.

Article 2.3 provides that "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised."

I note that one of the complainants states that there is a “very weak link to the product being sold” and the violence. The advertisement both in the censored and uncensored version, was designed specifically to position Boost Branded products and services as more than simply mobile phones but an entertainment medium. Each of the advertisements (violence aside) is quite an artistic film production which our advertising agency created to depict the merger between communications services and entertainment.

Coincidentally we note that a recent Hollywood movie release was World War Z. Plus Warm Bodies, and the very popular TV series The Walking Dead.

So in addition to the cross over between communication products and services, in the case of the uncensored version of the advertisement, the context in which the Boost service is being advertised is a demonstration of how mobile phone coverage can allow survivors of a fantastic situation, in this case a zombie apocalypse, to continue to stay connected and survive.

The scenario presented in this advertisement depicts the character “Ben”, braving the zombie-infested streets to obtain petrol for a generator. The advertisement is one of a series of advertisements depicting a group of survivors in a zombie-infested city, using their mobile phones to stay connected and survive, ie to “stay living”. The relationship between the scenario and the service is evident as Ben is depicted receiving a text from his fellow survivors instructing him to obtain petrol for a generator and again later taking a photo with his smartphone to text to his fellow survivors.

There is no denying that the imagery is violent, however, the level of violence is clearly justified in the context of a zombie apocalypse. Zombies are obviously fictional creatures that are understood by most viewers to be reanimated corpses that seek to feed on the flesh of the living, and depicted as vicious and relentless. Typical of zombie fiction scenarios, zombies must be dispatched with methods that include violence.

Therefore, Ben’s actions are reflective of what any person who has been subjected to the horrors of a post-apocalyptic world would undertake to survive. Further, to continue to allow these zombie creatures to live would also constitute the prolonging of the suffering of those who have already died and become zombie creatures against their will. Arguably, by terminating their existence, Ben is actually providing a small mercy to these people.

We also submit that in the context in which the products and services are being advertised (ie a zombie apocalypse to demonstrate how vital it is for people to stay connected) and to promote Boost Branded products are more than simply communication devices but also a source of entertainment, the level of violence is justified.

Obviously, if the violence were directed against living human beings, then this would put the advertisements into a different category and different considerations would need to be given. However, as the violence is directed against bloodthirsty vicious fictional creatures, it is justifiable in the context and most reasonable viewers would understand that no living human beings are being harmed or killed in this advertisement, only fictional creatures.

Accordingly, we submit that the uncensored version of the advertisement is presented in a way that is not contrary to prevailing community standards and in a manner which:

is appropriate for the medium in which it was intended;

is targeted towards a mature audience only, with many safeguards in place to ensure the content is delivered to its intended audience; and

the violence depicted is justifiable given the products and services promoted.

In conclusion, we submit that Boost has gone to great lengths to comply with the Code. Great care was taken by Boost and its advertising agency to ensure that the uncensored advertisement would only be viewed by mature audiences who would appreciate the tone and narrative of the advertisement. Accordingly, we submit that these complaints should be dismissed.

ADDITIONAL INFORMATION PROVIDED

When Boost undertakes such an exercise, it tries to promote directly and indirectly its brand and any products and services associated with its brand. This particular exercise was mainly focusing on promoting its brand but as our marketing agency, the creators of the concept, also sort to achieve the indirect promotion of the services:

(a) telecommunications; and

(b) the entertainment element these days of telecommunication services.

The advertisements associate our service and not simply with the ability to communicate (especially in a fictional apocalyptic scenario) but with the delivery of entertainment. As we mentioned in our response, the zombies theme is very popular these days and the entertainment industry reflects this with television programs and even Hollywood movies made having a zombies theme.

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 complainant’s concerns that the advertisement is aggressive and unnecessarily violent.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 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 features a survivor from a zombie apocalypse who receives instruction via his mobile phone to obtain some petrol and the advertisement depicts

the actions taken by the male survivor to defeat the zombies and to get the fuel. The Board noted that the advertisement had been viewed on YouTube.

The Board noted that there are two versions of the advertisement and that the complaint relates to the uncensored version. The Board noted that in this uncensored version, the advertisement designed to depict the aftermath of a zombie apocalypse begins with a man on a motorbike placing a portable music player on the ground and playing a haunting sound of a baby crying. The sound lures the zombies in to the street then shows the man attach large blades to his motorbike before driving at zombies and we then see several graphically violent scenes which include blood splatter, parts of the zombies' lower limbs lying on the street, the man aiming and shooting an arrow which strikes a zombie and finally the zombies being run over by the motorbike before the man recovers fuel from a parked car.

The Board noted the advertiser's detailed response that they had taken precautions to ensure the advertisement was age gated so that only viewers aged over 18 could watch the advertisement and that they had also included a warning at the start of the advertisement so that viewers could choose if they wished to continue and watch.

The Board noted that the provisions of the Code are very precise in that violence can be portrayed only where "it is justifiable in the context of the product or service advertised". The Board noted the advertiser's response that the advertisement was designed to "position Boost branded products and services as more than simply mobile phones but an entertainment medium" and that they had used a zombie apocalypse to demonstrate that people can stay connected via mobile telephones.

The Board noted that Boost is a mobile phone service provider and considered that whilst it is possible to access movies via a mobile phone in the Board's view the use of a graphically violent zombie scenario is not justifiable in the context of an advertisement for a mobile phone service provider. The Board noted that whilst the advertisement does demonstrate how mobile phones could be used in the situation depicted in the advertisement the Board considered that the situation itself, a zombie apocalypse, is presented in a manner which uses unnecessary violence in the context of the product advertised.

The Board determined that the advertisement did present or portray violence in a manner which is not justifiable in the context of a mobile phone service provider.

Based on the above the Board considered that the advertisement did breach Section 2.3 of the Code.

Finding that the advertisement breached Section 2.3 of the Code, the Board upheld the complaint.

ADVERTISER RESPONSE TO DETERMINATION

We acknowledge the determination of the Advertising Standards Bureau (ASB) dated 15 July 2013 that the YouTube Boost Prepaid Mobile Stay Living uncensored mini-movie (Mini-movie) used as an advertisement presented or portrayed violence in a manner which uses unnecessary violence in the context of the product advertised.

We are disappointed and disagree with the determination of the ASB, and again submit that the Mini-movie when used as an advertisement, presents violence in a way that is not contrary to prevailing community standards and in a manner which is:

- (a) Appropriate for the medium in which it was intended;
- (b) Targeted towards a mature audience only, with many safeguards in place to ensure the content is delivered to its intended audience; and
- (c) Justifiable given the products and services promoted.

Nevertheless, as stated in our initial submissions we have already taken steps prior to the ASB's determination to ensure that the Mini-movie will no longer pop up as an advertisement before YouTube videos are displayed.