



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0216-21
2. Advertiser :	Reckon Limited
3. Product :	Finance/Investment
4. Type of Advertisement/Media :	TV - On Demand
5. Date of Determination	28-Jul-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.3 Violence
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

There are three versions of this TV-on-demand advertisement. All versions feature a man nailed by his clothing to a wall in a garage. He says, "I reckon I could do without anymore nasty surprises."

A second man standing next to him says, "I reckon you can".

The first man says, "Bloody great".

The second man gives information about the app.

The first man says, "Can it teach my apprentice how to use a nail gun?"

The apprentice is then shown to be holding a nail gun pointed at his face.

Two versions of the advertisement show the second man to reply, "Sorry mate, he's a lost cause."

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

At the end of the commercial the apprentice is pointing a nail gun in his face (presumably loaded). This promotes violence, suicide and if kids see a nail gun they might point it at their face also.



THE ADVERTISER'S RESPONSE

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

The advertisement was prepared mindful of our obligations as part of the self-regulated community of national advertisers.

It is our submission that the following sections of the Code are not applicable:

- 2.1 – discrimination or vilification;*
- 2.2 – exploitative or degrading;*
- 2.4 – sex, sexuality and nudity;*
- 2.5 – language*
- 2.7 – distinguishable as advertising.*

That leaves:

- 2.3 – violence (expressly referred to by the one complainant); and*
- 2.6 – health and safety.*

Our respectful submission - based on the analysis set out below - is that the advertisement complained of does not offend either of these sections of the Code.

It is our submission that the prevailing community standards against which the content of an advertisement is tested, are heavily contextually dependent, including taking account of the audience at which the advertisement is aimed. The consideration is of the reasonable member of the relevant audience. So it is an objective standard, but dependent on context and target audience.

It is not the opinion of one person that determines whether the advertisement offends the Code.

The hypothetical reasonable member of the target audience is not especially sensitive or naïve or gullible on the one end of the spectrum; nor are they especially cynical, thick-skinned or insensitive on the other end of the spectrum.

This is important in relation to the one complaint received that: "... This promotes violence, suicide and if kids see a nail gun they might point it at their face also."

The creative brief for the advertisement (see attached slides that give an indication of this) was to create a humorous campaign featuring business owners facing a myriad of accidental problems and show that whilst the product won't be able to solve them all, it will be able to handle all the accounting stuff.

The creative genesis of the advertisement is not to promote violence or suicide, not to be cavalier about health and safety, and nor is it directed at children. All the problems



that occur in the advertising campaign are things that happen accidentally, and there is no intention from any character to harm others or themselves.

A lot of thought/planning/design went into identifying the target audience and media selection to make sure that the advertisement reaches the appropriate target audience. Noting specifically that the campaign was designed for BVOD (and not free to air live broadcast).

For each of the channels for which the advertisement was created, the audience segments were developed from a variety of data types outlined in the attached Target Audience and Nine Target documents.

Clearly the target market is not children and the programmatic nature of the campaign, rather than linear TV, means that the greater probability is that adult small business owners will be viewers of the advertisement.

The complainant herself is in the 30-39 demographic and tellingly was watching Judge Judy at the time, not children's programming. An adult small business owner would not (tested objectively) draw any conclusion that the advertisement promoted violence and/or suicide.

Also of importance is the first impression that the advertisement makes.

From the start, the advertisement is obviously comedy. The opening few seconds and the nature of the performances make this obvious. The character is stuck to a wall in an over the top and slapstick fashion – it purposely doesn't look realistic.

The advertisement also obviously occurs in a workplace because of the clothing, tools and location.

Even to the extent that children may inadvertently view the advertisement, it is extremely unlikely that a child would have access to a nail gun and the behaviour is not easily imitated or mimicable. A child would worryingly have to have easy access to a nail gun before how they used one was a concern.

In addition, nothing graphic or gratuitous is depicted.

There is nothing condoning violence or promoting violence.

There is nothing condoning or encouraging suicide.

The advertisement is obviously fanciful and lighthearted. There is nothing in the performance – objectively – to suggest any link to suicide. It goes without saying also, that was never the intention of the creators of the advertisement.

It is a stretch for the complainant to allege that the advertisement promotes suicide.



The actor is obviously portraying a comedic parody of an incompetent apprentice – not someone suicidal or violent – and there is no basis on the performance to suggest that suicide is within anyone’s contemplation.

All of the above equally applies to any suggestion that the advertisement offends against the health and safety provisions of the code.

The obvious humorous premise from which the advertisement commences allays any concerns regarding industry standards or workplace safety standard or OH&S standards that might apply.

There is nothing in the creative brief or the execution of the advertisement that encourages or condones unhealthy or unsafe behaviour, having regard to prevailing community standards.

If anything, the message is to position the brand to empathize with the situation small business owners can sometimes find themselves in.

The set up does not show nails being fired at the business owner. It is obviously staged without any demonstration of how that might have happened.

In the circumstances we respectfully request that the complaint be dismissed.

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 complainant’s concern that the advertisement promotes violence, suicide and behaviour that may be imitated by children.

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 complainant’s concern that the advertisement promotes violence and suicide.

The Panel considered that while the apprentice is shown to look into the projectile end of a nail gun and a man is shown to be attached to a wall by nails in a separate visual, there is no actual violence depicted in the advertisement.

2.3 Conclusion

The Panel considered that the advertisement 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 the Practice Note for Section 2.5 of the Code which states:

“Words and phrases which are innocuous and in widespread and common use in the Australian vernacular are permitted provided they are used in a manner consistent with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner.”

The Panel considered that the use of the word “bloody” is a colloquial term used to express enthusiasm or to emphasize what is being said. The Panel considered that the use of the word bloody in this advertisement is not aggressive and is used to emphasize the word “great”. 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.

Section 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel noted the Practice Note to Section 2.6 which states:

“Advertisers should take care not to depict behaviour that children may imitate. For example, advertisements which are likely to attract the attention of children or could indicate to children that appliances or other domestic/commercial equipment are a safe place to hide, are seen to encourage unsafe behaviour.”

The Panel noted the complainant’s concern that the advertisement promotes violence and suicide. The Panel considered that there is no suggestion of intentional self-harm in the advertisement and considered that most members of the community would not find the advertisement to promote or condone suicide in the context of the advertisement.

The Panel considered the act of the man holding the nail gun and whether that was a depiction of unsafe behaviour.

The Panel considered that the narrative of the advertisement suggests that the apprentice is still learning how to use power tools properly, and had mistakenly nailed his boss to the wall by his clothing.



The Panel considered that the depiction of him looking into the projectile end of the nail gun was evidence of him trying to understand how the nail gun worked.

The Panel noted that the nail gun was not connected to power and was not loaded. The Panel considered that the advertisement is not particularly appealing to children, and there is no verbal reference to a “nail gun” that may attract the attention of children. The Panel considered that the behaviour depicted in the advertisement is highly unlikely to be appealing to children or be considered to encourage children to imitate such behaviour.

The Panel considered that the overall impression of the advertisement is that the apprentice is foolish and still learning, and the Panel considered that most members of the community would not find the advertisement to be promoting unsafe behaviour.

Section 2.6 conclusion

The Panel considered that the advertisement did not contain material contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

Conclusion

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