



Case Report

1	Case Number	0256/11
2	Advertiser	KMart Australia Ltd
3	Product	Toys & Games
4	Type of Advertisement / media	Pay TV
5	Date of Determination	27/07/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

Advertising to Children Code 2.7 Parental Authority

DESCRIPTION OF THE ADVERTISEMENT

A mum is driving a car and her daughter is in the middle back seat talking incessantly. They are then shown on an elevator and walking in to a Kmart store. When they reach the toy section the daughter finally stops talking and we hear a voice over state that you can find hundreds of toys at Kmart.

THE COMPLAINT

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

I believe this advertisement is using pester power to get their campaign result.

The message of the advertisement is that mothers should take their annoying children to Kmart and buy them a toy to shut them up.

In my opinion this advertisement may incite children to replicate the depicted child's nagging by pestering their parents until they are taken to Kmart and receive a toy.

THE ADVERTISER'S RESPONSE

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

Kmart's advertising campaign was prepared to promote Kmart's toy event which commenced on 30 June 2011 and concluded on 13 July 2011. It is Kmart's position that this advertisement does not contravene the AANA Code for Advertising & Marketing Communications to Children and indeed is consistent with the Code's object of ensuring that 'a high sense of social responsibility' is upheld.

This light-hearted advertisement, based on real customer insight, was prepared to communicate the low prices available in our annual toy catalogue.

Kmart understands that the complainant's concerns relate the perceived 'pester power' of the advertisement. Specifically, the complainant states that the advertisement may "incite children to replicate the depicted child's nagging by pestering their parents until they are taken to Kmart and receive a toy".

Kmart disagrees that the intention of the advertising campaign was to utilise pester power so that children may be "taken to Kmart and receive a toy". Kmart further disagrees that this advertisement has unintentionally created such a result. Rather, the advertisement captures a natural interaction between mum and her chatty, seven year old daughter, a scene with which many consumers can associate. To that end, the advertisement is targeted at parents rather than children.

The Macmillan Dictionary defines pester power as "the ability of children to make their parents buy things for them by continuing to ask them until they agree to do it". Kmart's advertisement sees mum and her young daughter going on a trip to Kmart during the Toy event. The young girl can be heard chatting non-stop to mum throughout in excitement. It is not until they reach the doll section of the store that the young girl falls silent, amazed by the huge range on offer. Kmart note that at no point is the young girl seen to be 'pestering' or 'nagging' her mother for a particular toy, nor has the trip to Kmart resulted from insistence by the child.

It is Kmart's firm view that the advertisement does not contravene the AANA Code for Advertising & Marketing Communications to Children, however as the Advertising Standards Board will consider any issues raised under Section 2 of the Code, we provide the following additional information

Section 2.7

It is Kmart's position that neither the actions of the child, nor the overall impression created by the 'Quiet time' advertisement, undermine the authority of a parent. Furthermore, the advertisement is not intended to promote individual products to a child but rather highlight to adult consumers the huge range of products on offer during Kmart's toy event at 'unbelievably' low prices.

Kmart's position in relation to the complainant's perceived use of the 'pester power' in the advertisement is also important when considering Section 2.7 (b) of the AANA Code for Advertising & Marketing Communications to Children. Notwithstanding that the advertisement has been targeted at parents rather than children, Kmart do not believe that it contains an 'appeal to children to urge their parents or carers to buy a product for them'.

Kmart reiterate that at no point is the young girl seen or heard to be imploring her mother for a particular toy, nor has the trip to Kmart resulted from insistence by the child

Furthermore, whilst it may be clear to a consumer that the young girl is talking about a doll (and subsequently engages in some commentary on the dog that chewed it), Kmart disagree that the dialogue infers that her friends are superior for owning the doll, nor that her mother may be more generous for purchasing her one. As noted above, the intention of the advertisement is not to promote any one product but instead communicate Kmart's annual toy event to adult consumers.

I trust that this assists the Advertising Standards Board when it assesses the complaint made against Kmart's 'Quiet time' advertisement.

THE DETERMINATION

The Advertising Standards Board (Board) considered whether this advertisement breaches Section 2 of the AANA Advertiser Code of Ethics (the "Code") and the AANA Code for Advertising and Marketing Communications to Children (the Kids Code).

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

The Board noted the complainant's concern that the advertisement encourages pester power.

The Board considered the advertisement under the AANA Code for Advertising and Marketing Communications to Children. The definition of what is advertising and marketing communications to children' in the AANA Children's Code is "Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product".

The Board noted that Children means, "children 14 years old or younger" and Product means, "goods, services and/or facilities which are targeted toward and have principle appeal to children."

The Board noted the advertisement features a young girl talking incessantly to her mother whilst en route to a Kmart store, and that she only stops talking when she sees the range of toys available at the store.

The Board noted the advertisement has been rated G by CAD and therefore is likely to be viewed by children. The Board considered that whilst the advertisement features a young girl and is for toys, the overall theme, visuals and language used are directed at adults who may have been in similar situations and is to highlight a toy sale.

The Board considered that whilst the advertisement could have appeal to children, it is not directed at children. The Board considered that Kmart is a store which sells many products and that although the advertisement focuses on toys Kmart itself is not of principal appeal to children.

As the advertisement is not directed primarily to children and is not for product, the Board considered that the Kids Code does not apply.

The Board then considered whether the advertisement was in breach of Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Board noted that at the beginning of the advertisement the mum is driving a car with the young girl in the back seat. The Board noted that the girl's long hair partly obscures the seatbelt but noted that the girl is clearly restrained with a harness.

Based on the above, the Board determined that the advertisement did not depict material contrary to prevailing community standards on health and safety and did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach any of the Codes on any grounds, the Board dismissed the complaint.