



Case Report

1	Case Number	0307/10
2	Advertiser	All Interactive Distribution
3	Product	Toys & Games
4	Type of Advertisement / media	Pay TV
5	Date of Determination	14/07/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

2.2 - Violence Other

DESCRIPTION OF THE ADVERTISEMENT

The advertisement starts with animated toy Bears having a party and having fun but naughty bear was not invited. He is shown gathering various weapons and begins to attack the other bears with knives, guns and a baseball bat. He violently beats and kills them.

THE COMPLAINT

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

I'm no prude and no angel myself but this is disgusting. To promote such violence using a child's toy! Obviously targeted at children I don't care how late it is on children in some homes still watch TV.. and I was watching the tennis!!!! Revolting and I want to know why it's on the air!

It teaches people that revenge is fun and that even when you are totally abhorant you have a right to be included in everything.

It is brutal. Bears which are normally looked on as being kind and cuddly are depicted as unreasoning thugs.

THE ADVERTISER'S RESPONSE

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

*30" TVC promoting new release video game 'Naughty Bear' on PS3 and Xbox 360
The game is an 'M' rated video game with 'Mature themes and violence'
The TVC is to be aired exclusively on Fox Pay TV
The TVC was approved by PMG to run between 2230-0500 or in M & MA rated programs on FUEL.
TVC also rated suitable for M and MA programming and given 2230-0500 restrictions by Fox
This information has been supplied by the game publisher, 505 Games Ltd who created the ad and is responsible for the publishing of the game 'Naughty Bear'. All Interactive Entertainment holds the distribution rights for games published by 505 Games Ltd in Australia and New Zealand, and is therefore involved in this advertising complaint.
In response to the recent complaint regarding the commercial for Naughty Bear we would like to reassure all parties that as a responsible publisher, the appropriate action and steps were taken to ensure that this title was rated for and marketed to the correct audience – 16-34males.*

*The Naughty Bear commercial was submitted to Fox for approval and we received confirmation that they deemed it suitable to be aired during "M" and "MA" programming in Australia, or programming running post 2230-0500, a decision which we adhered to and planned accordingly. However, it appears that in this instance we have been faced with an impossible mission. We planned and booked a post 2230 campaign, but in reality with the -2 hour time difference between Sydney air times and Western Australia, we were faced with an impossible situation as it meant that the Naughty Bear commercial was aired by Fox at post 2030 in certain parts of the country. We were unaware that the broadcaster's time restriction didn't apply country-wide and that Fox were unable to split the feed.
Regarding the game itself, Naughty Bear is definitely not a child's toy and has never been positioned as such. Naughty Bear is a new IP/video game character that has been created for and solely targeted at the adult/mature audience. At no time has or will the character of Naughty Bear ever be marketed as a child's toy. Given the content within the game, we have worked closely with rating boards in Australia to ensure that an age appropriate rating was granted to the game, in this case an 'M' rating with consumer advice of "'Mature themes and violence', and that all marketing and advertising opportunities were coherent to the target audience in line with this age rating.
As a responsible publisher, we always abide by the decision of the official rating boards in all territories.
Since these complaints, we have taken steps as a publisher, in conjunction with Fox, to re-plan the remainder of our TV campaign using post 2400 – 0500 spots to try and overcome this issue. We have also proactively made a commitment, both in time and money, to re-edit the commercial to try and find a resolution that avoids such complaints, and clearly emphasizes the message that it is a mature rated game.
As we are based in the U.K., we are totally reliant on the broadcaster, who obviously has far more experience of TV commercial transmission, when it comes to clearances and restrictions within Australia than we do.*

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 was offensive and portrayed violence which should not be viewed by children.

The Board viewed 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 the advertisement was for the sale of a computer game (Naughty Bear) and that the advertisement is rated M or MA and was not able to be advertised until 10.30pm.

The Board noted that the images used in the advertisement are scenes from the game and considered whether the violence in the advertisement was justifiable in the context of the product being advertised. The Board considered that as the image is from a computer game box for a game targeted at an audience 15 years and over the violence in the advertisement is justifiable in the context of the product advertised.

The Board noted that the complaint was made in respect of the advertisement's accidental broadcast at 8.30pm. The Board noted that the advertiser has voluntarily amended the broadcast times so that the advertisement cannot be broadcast until after midnight in order to remove any risk of it appearing at an earlier timezone interstate. The Board determined that the advertisement does not breach 2.2 of the Code.

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