



Case Report

1	Case Number	0325/10
2	Advertiser	Just Car Insurance
3	Product	Insurance
4	Type of Advertisement / media	TV
5	Date of Determination	11/08/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

2.5 - Language Use appropriate language

DESCRIPTION OF THE ADVERTISEMENT

Static image of a large garage with an orange zebra crossing in the foreground. The text "Canvas 2 Kick Ass" appears on the screen followed by an image of a rally car which appears in stages and then changes in to a different car. A male voice over talks about how you can help build Australia's most kick-ass street ride, followed by details of how to do so by visiting Canvas2kickass.com.

THE COMPLAINT

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

I object to them using the term KICK-ASS. As the mother of a 4 year old boy that is HOT WHEELS obsessed this ad immediately grabbed his attention. The last thing I think a 4 year old should be saying while playing cars is that his cars look KICK-ASS like the car on the ad. This was exactly what came out of his mouth after seeing this ad on the TV twice on Sunday (11th July) afternoon. I dont really think that they needed to use those exact words to advertise the competition on TV. On line is fine young children would not be on that website but on television not really acceptable.

THE ADVERTISER'S RESPONSE

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

We have carefully reviewed the complainant's submission and note that she would have viewed our Advertisement on the afternoon and evening of Sunday 11 July 2010. The complainant has questioned the appropriateness of the language used in the Advertisement. Specifically the term "kickass", insofar as that term may be heard by a younger child audience within the PG time slot. The complainant specifically posits that very young children, including her four year old, should not be exposed to the term "kickass" at the time the Advertisement was screened.

Just Car appreciates that the term "kickass" is not one that is spoken by everyone, however we posit that it is a term that is in common usage, particularly by a young adult (16 years and older) audience of the afternoon and evening television shows during which the Advertisement was screened.

We believe that the use of this term within our promotion's name, and within the Advertisement is appropriate in the circumstances. We additionally do not believe that this term is too strong or in any way obscene to today's Australian PG-viewing audience. Whilst the two-word term, kick-ass, is not defined within standard dictionaries, we note that its current Wiktionary definition reads:

- 1. (slang) Rough, aggressive; powerful and successful.*
- 2. (slang) Excellent, first-class.*

We submit that neither of these commonly understood definitions of the term denotes obscenity at any level (obscenity meaning something that is offensive, rude, shocking or morally wrong: Cambridge International Dictionary of English).

Moreover, we submit that within the promotional category and audience, the language used in the campaign name "canvas2kickass" is appropriate. This name was designed to cut through to the target audience of males aged 16 to 29 years. To this target audience, "kickass" is a commonplace expression, of American heritage, that is in no way considered obscene or strong. Within the context of the promotion, it is both relevant and not unexpected. The use of American spelling of the term "ass" was also entirely deliberate, to play on the American based expression. The English version of the spelling was avoided as we acknowledge that that spelling could potentially be considered offensive to some segments of the Australian market.

The CAD rating for the language in the commercial was PG, to which we planned the programming selection, avoiding children's programming and focusing on programming which indexed well against males aged 16-29 years.

As such, we submit that the Advertisement did not contravene Section 2.5 of the AANA Advertiser Code of Ethics (Code).

In further reviewing the complaint against the Code, we submit that Section 2.4 is not relevant in regard to this complaint. Having due regard to the Advertisement's theme, visual and language, it was not directed at children aged 14 years or younger, nor was it advertising goods or services which would principally appeal to children.

Whilst Just Car recognises that younger children may be viewing television in the time slots the Advertisement screened in, and that some of those children would be interested in the automotive theme of the Advertisement (as we accept the complainant's child was) we respectfully submit that parents or guardians of such younger children would ordinarily be on hand to discuss any questions that such children would have about the Advertisement and the term "kickass". We posit that the complainant would have spoken to her child about the

content of the advertisement, and would have been in a reasonable position to explain and contextualise its meaning.

Just Car confirms that no children's programming time slots were included in the advertising schedule for this Advertisement. Rather, our advertising placement specifically targeted males aged 16 to 29 years, and young adult programming in which the contextual promotion of cars (generally) would be appropriate. We confirm that all advertising scheduling met the CAD-awarded PG rating criteria.

Accordingly, Just Car submits that the Advertisement did not contravene Section 2.4 of the Code.

In reviewing the complaint against Section 2.7 of the Code, Just Car submits that the nature of its Advertisement does not fall within the Voluntary Code of Practice for Motor Vehicle Advertising, as issued by the Federal Chamber of Automotive Industries Code of Practice. The regulated activities set out in Parts 2 to 4 of that voluntary Code are not contained within our Advertisement.

In conclusion, Just Car submits that its Advertisement does not contravene the Code, and specifically does not contravene Code sections 2.4, 2.5 and 2.7. We confirm that the Advertisement was reviewed by our in-house legal counsel and its content was approved for screening during appropriate PG time periods.

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 concern about the use of the phrase ‘kick-ass’.

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

The Board considered whether the advertisement was in breach of section 2.5 of the Code which states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.”

The Board considered that the term ‘kick-ass’ is one which is commonly used and that it was not used in this instance in an aggressive manner but in a manner that is consistent with colloquial usage in Australia.

The Board noted that the television advertisement received a PG rating by CAD and noted the advertiser’s response that they planned the programming selection to avoid children’s programming, and focused on programming which indexed well against males aged 16-29 years.

The Board considered that most members of the community would consider that the language was not inappropriate and was not strong or obscene.

The Board determined that the advertisement did not breach section 2.5 of the Code.

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

