



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0365/10</b>
<b>2</b>	<b>Advertiser</b>	<b>Cadbury Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>25/08/2010</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.6 - Health and Safety within prevailing Community Standards

### DESCRIPTION OF THE ADVERTISEMENT

A man is sat at his desk in an open plan office, eating chocolates from a bag of Cadbury Crunchie Rocks.

A male voice over, in the style of a documentary, talks about the many different types of Australian predators and we see a hairy hand moving across the floor.

The hand climbs up on to the table, knocks over the bag of Crunchie Rocks and takes some of the chocolates. We then see the man lifting the bag up and eating some of the chocolates and the hand crawls up the front of his shirt and pinches him. The man gives a small yell and drops the bag.

We then see the man exchange a smile with a female colleague who is looking over at him and then we see the hand dragging the bag of Crunchie Rocks under the desk.

The voice over then says, "Crunchie Rocks. Blame the hairy hand" and we see a screen shot of the different types of Cadbury Bitesize chocolate packs.

### THE COMPLAINT

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

*My two year old daughter was so scared of the hairy hand she was telling my wife and I for hours afterwards that the hand was going to get her and it can fly like a bird and attack her. She would not even go to sleep she was so scared. We could not console her - we said that we would not let it hurt you but she would just keep on saying that it can fly and jump on you like it got the man. She is taken to bed at seven to eight pm and I think that that ad is too*

*scary for any earlier than eight thirty. There has only been one other ad she was terrified from and that was the smoking ad with the deep man's voice singing "EVERYBODY KNOWS" and the sick people on the ad which was also on very early in the late afternoon.*

## **THE ADVERTISER'S RESPONSE**

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

*Cadbury takes all complaints seriously, consistent with our business principles of acting fairly and responsibly. It is never our intention to cause any offence or misunderstanding to any member of the community through our marketing activities. Accordingly, we have sought to give detailed consideration to this recent complaint in order to provide a comprehensive and appropriate response.*

*While we are concerned that the Cadbury bite size "Hairy Hand - Office" TVC has caused offence to the complainant, for the reasons outlined below, we do not consider that the advertisement depicts material that is unsafe and is contrary to Prevailing Community Standards on Health and Safety. As such, we do not consider that the advertisement breaches section 2.6 of the Code. We also do not consider that the Cadbury bite size "Hairy Hand - Office" TVC breaches the AANA Advertising and Marketing Communications to Children or AANA Food and Beverages Marketing Communications Code.*

*The Cadbury Bite Size range was launched in Australia in July 2010. These new products aim to deliver real chocolate pleasure through familiar and new Cadbury brands via the bite size format.*

*The bite size format is, by nature, more fun and social. The new Cadbury Bite Size range will aim to establish itself as a range of bite size chocolate products delivering irresistible chocolate pleasure which appeals to young adults.*

*The intent of the Cadbury "Hairy Hand - Office" TVC is to depict in a humorous way the real life scenario that chocolates often mysteriously disappear, without anyone owning up to the involvement in their disappearance. Whether it be friends, family or work colleagues, the Hairy Hand is a metaphor for people who secretly eat other people's chocolates.*

*The aim of the TVC is for the viewer to take out the key message that there is a new range of Cadbury products in the bite size format, and that the products are so irresistible and delicious that people, i.e. the Hairy Hand metaphor, will want to eat these products.*

*The advertisement's tag line 'NEW Cadbury Crunchie Rocks, blame the hairy hand' announces the new arrival of the Crunchie Rocks product and by again referencing the hairy hand reinforces the message that Crunchie Rocks are delicious and irresistible.*

*The story, creative execution and tag line is not in any way designed to depict material contrary to Prevailing Community Standards on health and safety. The Hairy Hand behaves in a humorous manner, pinching the male office worker, before running off with the Crunchie Rocks chocolates. The style of voice over themed as a nature documentary is also designed to add humour through both the delivery and content.*

*The story within the advertisement also includes the quirky inter relationship between the office workers which is designed to add further humour to the television commercial, reinforce the social nature of the bite size products and show that the product is designed for sharing with friends and family.*

*For these reasons, we submit that the advertisement does not depict material contrary to Prevailing Community Standards on health and safety and therefore is not in breach of section 2.6 of the Code.*

*The Cadbury bite size 'Hairy Hand - Office' TVC was approved by CAD with a 'W' rating. A 'W' rating means that the commercial may be broadcast at any time except during P and C (Children's) programs or adjacent to P or C periods and to take special care in placement in programs promoted to children or likely to attract a substantial child audience.*

*The "Hairy Hand – TVC" would not have been shown during shows rated P or C and can run in all other classifications. The strategy our media partner is following is to secure spots in programs directed to young adult or older audiences to reach an audience aged 16-39 years old.*

*The Cadbury bite size "Hairy Hand - Office" TVC has aired approximately 232 times on TV in its first week on air. It has aired in a range of prime time high reaching TV programs and we estimate that it has been viewed by 4,617,786 people.*

*The small number of complaints, compared with the number of times the advertisement has been viewed, suggests that the advertisement is not offensive to the general community and does not offend against prevailing community attitudes.*

*Cadbury is a responsible advertiser. All advertising is subject to numerous internal reviews, including by our Legal department and our Corporate Affairs team, to ensure that it complies with all legal and ethical requirements, including the Code and our Cadbury Global Marketing Code of Practice.*

*In summary, we consider that the Cadbury bite size "Hairy Hand - Office" TVC does not depict material contrary to Prevailing Community Standards on health and safety and as such, we submit that the advertisement does not in any way breach section 2.6 or any other section of the Code, the Advertising and Marketing Communications to Children Code or AANA Food and Beverages Marketing Communications Code.*

## **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 contains scary images that are not suitable for young children.

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

The Board 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 this advertisement has been rated W which means it can be broadcast at any time except during and adjacent to P and C (children's) programmes. The Board noted that the advertiser's intended market audience is aged 16-39 years old and that the advertiser had endeavoured to secure slots in programmes aimed at this age group. The Board considered that the hand is clearly depicted as a hand and not as a spider and although some

very young viewers may find it frightening, the target audience means it is unlikely to be seen by unsupervised children.

The Board noted the advertiser's response that the aim of this advertisement is to humorously show that chocolates often mysteriously disappear from opened packets without anyone owning up to taking them. The Board agreed that some members of the community may find the depiction of the hairy hand to be in bad taste. However the Board considered that most members of the community would view the advertisement as humorous.

Based on the above, the Board determined that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety.

The Board then considered whether the advertisement complied with section 2.2 of the Code which requires that advertisements 'shall not present violence unless it is justifiable in the context of the product or service advertised.'

The Board noted the hand does a nipple tweak. The Board considered that the tone of the advertisement was unrealistic and unlikely to be copied. The Board determined that there was no breach of section 2.2 of the code.

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