



Case Report

1	Case Number	0374/14
2	Advertiser	KMart Australia Ltd
3	Product	Retail
4	Type of Advertisement / media	TV - Pay
5	Date of Determination	24/09/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The advertisement starts with an image of the \$25 "dipped stool". It has a white top and painted white and brown legs. The stool then changes to a scene that resembles a forest so the legs of the stool make up the tree trunks. The bottom is brown (like the filter part of a cigarette) and the white part is the tall trunk. Other furniture and household items are shown with music playing in the background throughout.

THE COMPLAINT

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

When the K-mart ad that starts with a stool comes on they turn the stool upside down and it looks like a forest of cigarettes.

I would think that the similarity to the appearance to cigarettes it could be subliminal advertising.

THE ADVERTISER'S RESPONSE

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

The scene that the customer has complained about is a forest scene which is part of

a fantasy world whereby the snow on the trees is meant to replicate the appearance of the Kmart product, being the white dipped stool. There was no intention for the trees to look like cigarettes.

· A copy of the script of the advertisement is attached.

· The CAD reference number and ratings are as follows –

o GZXO1ROA – Rated G

o GZXO3ROA – Rated G

o The reason for the two CAD references was due to two different end frames being one was for “shop online” and the other was for “Churchill now open” which was a reference to a new Kmart store in South Australia, and this advertisement was only advertised in South Australia.

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 features a scene showing cigarettes disguised as stool legs.

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

The Board considered 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 the advertisement features various Kmart products and that a feature from each product is magnified and multiplied in different ways. The Board noted that the focus on the stool features its legs multiplied many times so that the legs resemble trees.

The Board noted the complainants’ concerns that the legs of the stool resemble cigarettes so that when they are multiplied it looks like a “forest of cigarettes”. The Board acknowledged that the colouring and pattern of the stool legs could be interpreted to resemble cigarettes but considered that this was a coincidence rather than an attempt by the advertiser to promote cigarettes. The Board noted that there are no references to smoking in the advertisement and considered that the stool legs are clearly intended to be lots of legs multiplied and that this visual effect is used for the other products advertised and not just the stool. The Board noted that when the legs are multiplied they are given small branches which indicate they are trees and considered that most members of the community would consider the image of the stool legs to be representative of a forest of trees made from the legs of a stool rather than a forest of cigarettes.

Overall the Board considered that the advertisement did not depict cigarettes and did not encourage or condone smoking.

The Board considered that the advertisement did not depict material contrary to prevailing community standards on health and safety around smoking and determined that the

advertisement did not breach Section 2.6 of the Code.

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