



Case Report

1	Case Number	0388/16
2	Advertiser	Sony Pictures Releasing Pty Ltd
3	Product	Entertainment
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	28/09/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.3 - Violence Causes alarm and distress
- 2.3 - Violence Causes alarm and distress to Children

DESCRIPTION OF THE ADVERTISEMENT

There are two versions of this television advertisement promoting the new movie, ‘Don’t Breathe’:

EXTREME REVIEW (SOFT) 15

The 15sec TVC EXTREME REVIEW (SOFT) shows elements of the story for the movie DON’T BREATHE, and review quotes highlighting critical acclaim for the film. It shows a man’s eyes, a group of youth breaking into a home and waking up the resident, people running around the dark house, shining torches and looking aghast. The VO reads aloud the review quotes that are shown on screen. The TVC carries the title of the film, release date, MA 15+ classification and consumer advice for the full duration of the spot.

PROMISE 30

The 30sec TVC PROMISE shows elements of the story for the movie DON’T BREATHE. It shows the lead female protagonist making a promise to her little sister, three protagonists in a car making a plan to “rob a blind guy”, entering the house and waking up the resident. It then shows a tussle over a gun, the gun firing, the female protagonist looking aghast and then running through the house. It then shows two of the protagonists in the dark trying to hide from the visually impaired home-owner. It shows the lead protagonist scream, the man banging on a bench, the lead protagonist teary-eyed and a close up of the home-owner before displaying the name of the film. The TVC carries the title of the film, release date and MA

15+ classification, along with the consumer advice for the first 10sec of the TVC as per CAD guidelines.

THE COMPLAINT

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

I have noticed for quite some time that channel 9 screen advertisements during family time viewing that make my children upset or scared. They played an ad for a scary movie at the cinemas and it gave my child a bad dream last night.

I find it highly inappropriate for this ad to be played at this time. This is prime family time and it is very disturbing for my children to view this ad before I had a chance to change the channel. I am very disappointed.

This movie has an MA 15+ rating and was screened during the family show Australian Survivor before 8:30pm. My children aged 10 and 7 viewed the advertisement which contained horror images and supernatural themes, as well as scary music. It was completely inappropriate for this time of the evening and show during which it was shown. My children were very concerned and upset about what they saw. I believe it is extremely inappropriate to show advertisements on free to air tv for any horror films before 8:30pm

THE ADVERTISER'S RESPONSE

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

We have reviewed the notice of complaints regarding the TV advertising of our film DON'T BREATHE, which was released in cinemas nationally on September 1, 2016. The TV advertising campaign commenced on August 24, 2016 and completed on September 4, 2016.

All TVCs were submitted to CAD for rating before being delivered to the TV stations, as no TVCs can air without a confirmed CAD advice. The TVC was delivered to networks with the confirmed film rating advice with instructions to use only during programs and timeslots appropriate for the CAD rating.

We received the following rating from CAD for the 15 second TVC 'Extreme Review Soft' on August 25, 2016.

TVC Name: Extreme Review Soft 15

Key Number: SPRDBT152

CAD Rating: J3L7DEPE

CAD Reference no: 1145065

We received the following rating from CAD for the 30 second TVC 'Promise' on August 25, 2016.

TVC Name: Promise 30

*Key Number: SPRDBT303
CAD Rating: M3L7BEPE
CAD Reference no: 1145065*

All free-to-air networks have confirmed the appropriate CAD rated spots aired in the appropriate programs and time of day for the entire duration of the TV advertising campaign.

In specific relation to the days and programs referenced in the complaints, Channel 9 have confirmed the 'J' CAD rated spot 'Extreme Review Soft' 15 aired during the program THE BLOCK on August 28, 2016. 'The Block' is rated PG and therefore the airing of the 'J' rated spot adheres to the CAD guidelines. The CAD guidelines state that TVCs rated as 'J' are suitable for PG rated programs and "may be broadcast at any time except during P and C (Children's) programs or adjacent to a P and C periods".

Network 10 has confirmed the 'M' CAD rated spot 'Promise' 30 aired during the program AUSTRALIAN SURVIVOR on August 29, 2016 just after 8pm. As 'Australian Survivor' was not rated G or PG, they were able to run the 'M' CAD rated spot post 7.30PM, so this spot ran within CAD guidelines. M-CAD spots can be broadcast post 7.30PM as long as a program is not PG or G.

The TV advertisements for DON'T BREATHE do not breach any part of Section 2 of the AANA Code of Ethics. They do not discriminate, exploit or degrade any individual. It does not present or portray violence out of context for the relevant audience as determined by CAD or use obscene language and it doesn't depict material contrary to Prevailing Community Standards on health and safety.

In regards to the specific part of Section 2 (2.3) identified in the complaint, under no circumstances did we intentionally target children as part of our TV campaign. As stated above, all TVCs ran in the appropriate programs and timeslots as per CAD guidelines.

As television is a broad medium, we are unable to determine what programs children are viewing as each household varies. Our due diligence ensures we would not intentionally target children with our advertising campaign for a film of this genre, and we have complied with the broadcasting standards and guidelines for our advertising campaign.

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 is for a horror film and as it is shown during family time viewing, is frightening for children.

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

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 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 that there are two versions of this television advertisement, both featuring scenes from the new movie, 'Don't Breathe' which is currently airing in cinemas.

The Board noted the 15 second version of the advertisement which had been rated 'J' by CAD. The Board noted that the scenes from the movie used in this version of the advertisement include people running through a dark house looking scared and a man trying to break down a door. The Board noted the male voiceover describes the movie as 'savagely unpredictable' and 'required watching' and considered that his tone of voice adds to the suspenseful tone of the advertisement. The Board noted however that although we see people who appear scared the Board considered that the reason for their fear is not shown and in the Board's view the actual content of the advertisement contains no scenes of violence despite the suspenseful mood. The Board considered that the J rated version of the advertisement did not present or portray violence and was not inappropriate in the context of the advertised product.

The Board noted the 30 second version of the advertisement which had been rated 'M' by CAD. The Board noted that the scenes from the movie used in this version of the advertisement include a man pointing a gun at another man followed by a struggle and the sound of the gun firing, a woman screaming, and a man with a knife making stabbing motions. A minority of the Board considered that these scenes were impactful and their dark nature emphasised the horror element. A minority of the Board acknowledged that in order to promote a movie the advertiser needs to show some footage of that movie but considered that the scenes of a gun being pointed at a person before being discharged, and the visual of the man making stabbing motions with a knife were impactful and likely to cause alarm and distress to some viewers. A minority of the Board considered that the M rated version of the advertisement did present or portray violence in a manner which was not justifiable.

Following considerable discussion however, the majority of the Board noted that although we see a gun being pointed at a person, followed by a brief struggle, we do not see where the bullet goes or even if it hits a person. The majority of the Board noted the scene showing the woman screaming and considered that we do not see why she is screaming and in the Board's view it is the editing of the advertisement which creates the sense of menace and fear rather than the actual content. The majority of the Board noted the final scene showing a man with a knife making stabbing motions and considered that this scene is very fleeting and it is not clear what the knife is aimed at.

The Board acknowledged that some members of the community would prefer that horror/scary movies not be advertised on television but consistent with previous determinations in cases 0314/15 and 0306/16, the majority of the Board considered that in the context of a promotion for a horror movie the scenes depicted were relevant to the advertised product and were not so graphic or suspenseful as to be inappropriate for an audience of M rated material.

The Board determined that the advertisement did not breach Section 2.3 of the Code.

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

