



Case Report

1	Case Number	0480/16
2	Advertiser	Apple
3	Product	Mobile Phone or SMS
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	23/11/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The television advertisement shows a red balloon floating out the window of a farmhouse and then over various landscapes. It stops briefly under a bridge where it bumps into a yellow balloon. The two balloons then join a group of other balloons and move through the city, into the window of a woman's apartment. The woman receives a 'happy birthday' text message. A cascade of digital balloons can be seen on her iPhone 7 when she unlocks the phone and reads the celebratory message. The advertisement concludes with a text disclosure about the quality of this new messaging functionality.

THE COMPLAINT

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

Very disappointing to see products advertised with helium balloons considering the huge environmental pollution, harm to animals and waste of precious helium resource. Please consider changing this advert.

Apple and their advertising agency should be condemned for the new iPhone 7's "expressive images" feature which has serious implications for the environment.

While the massive release of helium balloons depicted may be computer generated, their feature condones, normalises and promotes such acts in everyday circumstances.

Released balloons come back to Earth somewhere, possibly hundreds of kilometres from their source, thereby obviously resulting in litter. It is illegal to litter just one cigarette butt, yet this ad and iPhone "features" promotes (or at least condones) a mass littering event of balloons.

The threat to marine wildlife, farm animals and freshwater wildlife through starvation, choking, strangling or digestive congestion when they mistake the balloons for food is well documented.

Attached streamers and plastic disks increase the threat and add to the general litter and plastic trash in our oceans.

Helium is a rare gas vital to many scientific and medical uses. It is wasted when helium balloons are used for frivolous celebratory, advertising or commemorative purposes.

The release of twenty or more balloons in NSW is illegal due to the potential for detrimental environmental impacts.

The advertisement should be removed.

THE ADVERTISER'S RESPONSE

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

The substance of the Complaints is that the advertisements condone, normalise or promote the physical release of large numbers of helium balloons. The Complaints note that the release of large numbers of helium balloons could have serious implications for the environment because of the impact of associated waste material spread over a large vicinity, and the usage of large amounts of helium.

However, the advertisements do not show any person releasing any balloons. The advertisements' "release" of any balloons is purely digital, being triggered by the opening of a "happy birthday" text message on a user's iPhone 7. The advertisements show only that balloons are associated with celebration, and that these can be created graphically on a digital device when appropriate. The advertisements cannot properly be said to condone, normalise or promote any physical activity. There is no "call to action" to do such a thing, nor is there any material risk that such a call to action could be reasonably inferred. We would also note in this context that one segment of the advertisements shows two balloons having romantic "feelings" for one another, which roots the advertisement in fantasy; as does the final tagline "practically magic".

Further, we do not consider, on a fair and proper reading, that the Complaints fall within any head of standards listed in section 2 of the AANA Advertiser Code of Ethics (Code), read in conjunction with the accompanying Practice Note. Section 2.6 of the Code, stated to be the foundation of the Complaints, has a health and safety focus. This section, read reasonably, is designed to prevent advertisers promoting or inciting risky conduct (particularly by children), such as riding a bicycle without proper protective equipment.

This section and the remainder of the Code is inapplicable to the advertisements.

Additionally, on a fair and proper reading, no head of standards in any other applicable code promulgated by the Bureau could reasonably be said to be engaged.

For completeness, while Apple does not consider the Complaints have merit, Apple takes environmental pollution seriously and endeavours to act consistently with all applicable laws, regulations, and community standards in relation to environmental protection. Please see <http://www.apple.com/au/environment/>. Apple also endeavours to act in accordance with all applicable advertising laws, regulations and codes.

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 depicts a high volume of helium balloons being released in to the air which is harmful to the environment, wastes helium resources and could harm animals.

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 that this television advertisement opens on a red balloon drifting out of an open window before traveling across countryside to a city where it meets a yellow balloon, then these two balloons join hundreds more as they make their way to a woman’s apartment and we see her receive a birthday message on her phone which shows balloons floating on the screen.

The Board noted it had previously dismissed a similar complaint about the release of helium balloons at funeral in case 0183/16 where:

“The Board noted the complainant’s concerns that helium balloons can be extremely harmful to the environment and can cause harm to animals. The Board acknowledged that there is a level of community concern around the biodegradability of balloons as well as the potential dangers to wildlife ingesting pieces of balloons. The Board noted however that its role is to reflect the Prevailing Community Standard, not to set it. The Board noted that the laws around releasing helium balloons differ across each state and territory across Australia, for example in NSW it is an offence to release twenty or more balloons at the same time (http://www.austlii.edu.au/au/legis/nsw/consol_act/poteoa1997455/s146e.html) but in WA, where the advertisement was aired, there is no legislation preventing the release of balloons although it is possible that littering laws could apply but this is difficult to apply (<http://www.kabc.wa.gov.au/balloon-releases-and-littering>). The Board noted that the release of helium balloons is common at funerals as a way of marking a loved one’s death and considered that the advertisement is referencing a particular family’s way of celebrating a life for the purpose of highlighting that this funeral company will personalise a service to suit your own family and is not encouraging members of the community to go and release helium balloons and seeds in to the environment.”

In the current advertisement the Board noted the advertiser's response that the balloons in the advertisement were created digitally. The Board noted that it is possible to release a large number of balloons in to the air and acknowledged that there is a level of community concern over the potential environmental impacts of such actions, but the Board considered that in the context of promoting a digital message service the advertisement does not encourage the release of real balloons but rather highlights how balloons can be sent over the phone. The Board noted that the images are clearly CGI and not realistic.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety.

The Board 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.