



Case Report

1	Case Number	0482/17
2	Advertiser	Shiploads
3	Product	Entertainment
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	08/11/2017
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

The advertisement features costumes and ideas for Halloween. A scary voiceover describes the types of things available in store and speaks in rhyme. The name of the store is Shiploads.

THE COMPLAINT

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

I think an advertisement like this should NOT be shown during daytime TV in front of young children. My 10 year old son happened to have a nightmare about the same clown after seeing this Ad and my 1 year old started crying when she saw it on the TV.

THE ADVERTISER'S RESPONSE

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

This advertisement complies with the AANA Code of Ethics – Section 2 Consumer Complaints

This advertisement does not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political

belief.

This advertisement does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

This advertisement does not present or portray violence. Should the Board consider any of the featured Halloween costumes or animated ornaments as suggestive of violence, please make a consideration to the context of Halloween and the nature of these products.

This advertisement does not make any mention or reference to sex, sexuality or feature any nudity.

This advertisement only uses language which is appropriate. Strong and obscene language has been avoided.

This advertisement does not depict material contrary to Prevailing Community Standards on health and safety.

This advertisement is quite clearly distinguishable as advertising.

This advertisement was not designed to appeal to children nor was it directed primarily to Children.

The advertisement is the fourth iteration of an original produced in 2014 with the sole purpose of showcasing the range of Halloween related products available from the advertiser. The 'spooky' nature of Halloween was employed as a theme to promote these products, and the actual sound effects for these products has been utilised to create a more engaging advertisement.

The advertisement was not designed to cause alarm or distress, especially to children, with the advertiser simply showcasing their range of Halloween products. It is appreciated that the essential nature of Halloween may itself cause alarm or distress to some viewers, however in the four years that this, and other previous iterations of this advertisement has run on Free-to-Air TV, this is the first instance of a formal complaint expressing that it may have caused alarm or distress.

While the products are creepy and may shock some individuals, they are not directly related to violence. The 'Evil Clown Face' mentioned in the complaint is eerie, however the direct link to 'evil' is not presented nor should it be drawn necessarily without the current context of the recent film version of Stephen King's It, and subsequent advertising, which features an evil clown character.

It was classified with a 'W' rating, and "may be broadcast at any time except during P and C programs or adjacent to P and C periods." As such, the advertisement was not placed during these periods, as the advertisement was not directed primarily to Children and should not be considered as Advertising or Marketing Communications to Children.

Again, it must be reiterated that this advertisement was not directed at Children and media placements were not made during periods which would be in direct contempt of a 'W' rating.

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 frightening and not appropriate 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 the advertisement features a voiceover speaking with a scary tone describing the items available in store. The words are spoken as a rhyme and in connection with images on screen of ghosts, clowns and skeletons. There are image of people in costumes and the final scene shows images of young children looking happy and dressed in Halloween costumes.

The Board noted the advertisement for the free-to-air versions were given a W rating by CAD based on the content (http://www.freetv.com.au/media/CAD/Placement_Codes.pdf) and was aired in the appropriate time for the rating.

The Board noted that the promotion was ahead of Halloween and considered that some of the images particularly the depiction of a ghoul crawling along the floor and the skeleton in the cemetery were frightening and would likely scare young children viewers.

The Board considered that in the context of an advertisement for Halloween, the Board considered the images were clearly fictitious and not overly alarming.

The Board considered that the advertisement did portray violence that was justifiable in the context of the product or service advertised and did not breach section 2.3 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: "Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided".

The Board noted that this television advertisement is for a store with the name "Shiploads." The Board noted that Shiploads sounds very similar to the colloquial phrase 'shit loads' but is said in conjunction with the name of the store being shown on screen so clearly interpreted as a reference to the shop name.

The Board noted it had previously dismissed complaints about the use of the phrase, "up Ship Creek!" in an advertisement in case 0064 /17 where:

"...the word 'shit' is not actually used and considered that the phrase 'Ship Creek' is contextualised by the sign post for Ship Creek.

Similarly, the Board acknowledged that some members of the community may find a reference to the word 'shit' or similar sounding to be inappropriate but considered that this word is not actually spoken in the advertisement.

In the Board's view the overall tone is light-hearted and humorous and the language used is not inappropriate in the circumstances and does not amount to strong or obscene language.

The Board considered that the advertisement did not use strong, obscene or inappropriate language and 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.