



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0518/18
2	Advertiser	Telstra Corporation Ltd
3	Product	Telecommunications
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	12/12/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Unsafe behaviour

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features scenes of a family using products which are available to purchase at Telstra. These include a smart watch, headphones, and drone. The drone scene depicts a drone with mistletoe attached being flown by a teenager over his parents heads.

THE COMPLAINT

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

Use of drone by children too close to parents kissing under mistletoe

THE ADVERTISER'S RESPONSE

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

The focus of the advertisement is to showcase the range of add-on gifts a customer





can purchase from Telstra and promote Telstra as a gifting destination. The scene of the TVC that is the subject of the complaint features a child hovering a drone dangling mistletoe in a backyard with his parents ("drone scene").

For the reasons set out below, Telstra maintains that the advertisement does not breach section 2 of the Code, and in particular, clause 2.6 in respect of prevailing community standards in respect of Health and Safety. In short, Telstra's position is that the purpose of the advertisement is to convey the range of different devices and accessories available as gifts from Telstra and to promote Telstra as a destination for purchase of Christmas gifts. The advertisement is not intended to, and Telstra says does not, depict typical use of drones or in any way offend prevailing community standards in respect of health and safety.

In more detail:

Telstra asserts that a reasonable consumer would understand that the drone scene is used merely to depict an example of a gift a customer can purchase from Telstra for Christmas. The overriding intention of the advertisement is to convey the whimsy and wonderment of Christmas and to showcase the range of add-on gifts available from Telstra. This is evidenced by the narration, "This Christmas, find gifts for everyone. Add on a summer of sport. Add on the best entertainment. Add on the latest tech. Add on must have accessories" and the chain of scenes demonstrating customers opening and using the gifts they received. Over 70% of the TVC run-time is dedicated to these various scenarios. In contrast, less than 15% of the total run time of the TVC is dedicated to the drone scene.

It would take an extremely fanciful, forced and unrealistic viewing of the TVC to conclude that Telstra is attempting to demonstrate typical use of a drone, or is offending a prevailing community standard in respect of health and safety. The drone scene is deliberately designed to depict the wonder of Christmas - evidenced by the mistletoe dangling from the drone above the parent's heads. It isn't intended to be, and a reasonable viewer would not conclude it to be, a depiction of drone usage that is realistic. Indeed, it is deliberately crafted to be far removed from a commonplace usage scenario, and supports the purpose of the TVC to convey the wonder of Christmas as opposed to typical use.

THE DETERMINATION

The Ad Standards Community Panel ("Panel") considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the "Code").

The Panel noted the complainant's concerns that the advertisement features a drone flown too close to people.



The Panel viewed the advertisement and the advertiser's response.

The Panel noted that the advertisement featured a series of scenes of a family using products. The scene which is the subject of the complaint depicts three children flying a drone with mistletoe attached over their parents heads.

The Panel 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 Panel noted that the adults in the advertisement who are shown under the drone do not appear threatened or afraid. The Panel noted that the drone appears to be a small toy drone, as opposed to a large or commercial use drone. The Panel also noted that the drone has blade protectors.

The Panel noted that the Australian Government Civil Aviation Safety Authority provides recreational drone safety rules around flying drones or model aircraft. The Panel noted that the below regulations are applicable to this advertisement:

- You must not fly your drone within 30 metres of people, unless the other person is part of controlling or navigating the drone.
- You must not fly over or above people. This could include festivals, sporting ovals, populated beaches, parks, busy roads and footpaths

However, the Panel noted that it has to consider whether the advertisement is depicting material contrary to Prevailing Community Standards on health and safety.

These rules for recreational drone use are intended to avoid hazard to other people, and ensure privacy of other people is respected. In the family background setting of the advertisement, while not ideal, the use of the drone by the three children does not appear unsafe.

The Panel considered that there is no evidence in the advertisement of the drone being used in any manner other than domestic backyard use, and considered that most members of the community would not consider the recreational personal use of a small drone in one's own backyard to be a breach of community standards on safety.

The Panel considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety. The Panel determined that the advertisement did not breach Section 2.6 of the Code.

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

