



## **CASE REPORT**

1. Complaint reference number	112/05
2. Advertiser	Pepsico Australia Holdings Pty Ltd (Pepsi max)
3. Product	Food
4. Type of advertisement	TV
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Tuesday, 10 May 2005
7. DETERMINATION	Dismissed

## **DESCRIPTION OF THE ADVERTISEMENT**

This advertisement features a group of young businessmen standing on a window washer's scaffolding that is set against a high rise city building. Of the group of men, one young man has large orange glue balls attached to both hands and feet. He is lifted off the scaffolding and 'glued' to the high rise building. The men in the window washing scaffolding move the scaffolding from underneath the man stuck to the wall. One of the men feeds him a can of Pepsi Max. As they drag the scaffolding away the man in the scaffolding says 'Don't worry, there's no sugar'. At that point, the man begins to slowly flip down the side of the building, momentarily sticking to the windows.

## **THE COMPLAINT**

Comments which the complainant/s made regarding this advertisement included the following:

*"There are no safety mechanisms obvious which is a worry, and as it appeared during a show when children would probably be watching, they could easily try and duplicate the actions."*

*"The advertisement is clearly a health and safety risk. Here it is clearly in action, 'assuring' the person they can hang on to the building with the help of Pepsi Max. How often do we hear of young persons copying what was on television?"*

*"I find the advertisement very concerning as it appears to advocate work place bullying, hazing and initiation ceremonies as part of working life. People should not be encouraged to support such antisocial and dangerous behavior."*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

*"It depicts a humorous, fantasy situation featuring stunt people playing out an unrealistic scenario using special effects to exaggerate the tag line and positioning of the commercial: 'Don't worry, there's no sugar', meaning while there are many things one could worry about in life, the sugar content of Pepsi Max should not be one of those worrisome things."*

*"The action in the advertisement in question is not only physically impossible – it is depicted in a way using cartoon-style effects to enforce this fact."*

*"The media buy targets 25-plus viewers and media has only been purchased in Zone One post-7pm programming in accordance with the commercial's rating."*

*"We do not seek to promote behaviour that could harm consumers."*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the “Code”).

The Board found that the depiction did not contravene the provisions of the Code relating to health and safety.

Further finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaint.