



CASE REPORT

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| 1. Complaint reference number | 236/09 |
| 2. Advertiser | UltraCompany |
| 3. Product | Mobile Phone/SMS |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Violence Other – section 2.2 |
| 6. Date of determination | Wednesday, 10 June 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

The TVC commences with the Gothic background music and images depicting a cemetery, with headstones and a silhouette of the Grim Reaper. The voice over “Some people live to be 100, but most don’t – ever wondered when your last day on earth will be, or how it will end?. Just subscribe to the Day of Death Calculator and get a chillingly accurate answer instantly. Text DEAD plus your name and your year of birth, to 19 30 40. Example DEAD, KARL 1976 to 19 30 40. And find out your day of death right now. The mobile telephone shows the response “21 December 2012 – HIT ON HEAD BY COCONUT.” Commercial ends with gothic type laugh. The first line of the superimposed text is 'For Entertainment Purposes Only'.

THE COMPLAINT

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

My daughter and I (18 y.o) were both watching this ad and found the idea of people ringing up to find out when their friends are going to die disturbing enough but then to show someone (even someone animated) being hit by a car in graphic detail very unnerving. I cannot imagine what this would do to someone who has lost a friend or family member in this way who watched this at and made death appear so trivial.

I find this ad offensive as my father was diagnosed with brain cancer and he was told he may only have 2 months to live. I don't think that a death predictor is a fun thing nor do I think death is a joke. It is upsetting to anyone facing death or dealing with a death of a loved one. It's not funny at all. It should be taken off TV never to be shown again.

The reason I am complaining about this ad is that i think it is totally inappropriate to lead people to think that they are going to die on a particular day. What if someone unstable believed they were to die on a particular day, and committed suicide or something else silly. Hurt other people before they "left". There are so many crazy, unstable people in this world. It is simply not acceptable!

I think the ad pretty much tells you why it is so offensive, I am a broad minded adult who realises that late at night ads are aimed at mature adults and that there is a slew of rip off S.M.S. ads on the market... but to actually advertise a way to find out when you are about to die is so sick and appalling beyond words, how on Earth did this ad make it to television??? who is responsible for giving this disgusting piece of garbage the green light ??? and when will this sick so called ad be removed from our screens ???.

These sort of ads, whilst being understood and dismissed by most sensible people, will appeal to people who are susceptible to believing horoscopes or mentally disabled and the results may cause intense distress.

Vulnerable people do believe this rubbish and I cannot stress how strongly I feel about such distasteful and disreputable products and advertising and the companies that accept such advertising.

THE ADVERTISER'S RESPONSE

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

We have received the complaints regarding the Day of Death calculator in which they believe this may cause stress and violence to those who are vulnerable to believe such a service. We deeply regret to receive complaints about our TVC but we sincerely disagree with their complaints for the following reasons:

- 1. The complaints are mostly directed at the product itself, rather than the advertisement. The television commercial itself does not contain any violence and does not contain any behaviour that is contrary to acceptable social standards.*
- 2. The day of death calculator is presented as a pure entertainment service, advertised in a fun and amusing way, with laughter at the end and an example of an answer "Hit on the head by a coconut" which is an unrealistic answer to emphasize the entertainment aspect of this service. There has been a lot of effort put into presenting this service as a "gimmick".*
- 3. This service is an entertainment service; there is a clear and large disclaimer that says "For entertainment purposes". This disclaimer is shown for 20 seconds to ensure that ALL people can read it.*
- 4. The TVC was shown after 8.30pm on free to air channels as it deals with a mature topic.*
- 5. Regarding the product itself, we set up the service to ensure that all people can enjoy this entertaining service. The answers given by this service are totally unrealistic ways to die; there is no chance that anyone could believe them, even the most vulnerable. Here are some examples:*

11/01/2040: In 2040, corporations are fighting over water. You however, are fighting over the remote control at home, and a 14 metre plasma screen crushes you.

12/02/2040: Animals have taken over the world in 2040. They decide to make an example out of you after you tell a horse it looks like Sarah Jessica Parker.

13/03/2040: When the aliens come, everyone is surprised they're so nice. But not you, whose house became their landing site.

14/04/2040: Starving, you break into Oprah's imperial headquarters on the moon to steal supplies. Catching you, she harvests your organs into a protein shake.

16/05/2040: You foolishly walk into an artificially intelligent telephone pole. Which takes offence, gives you a verbal lashing, and then electrocutes you.

17/06/2040: A new disease has gripped the planet in 2040 that only affects people who like to shop. You buy one too many pairs of shoes and explode.

19/07/2040: The big sport in 2040 is giant squirrel fighting. You think you have what it takes. A 20 foot genetically modified squirrel disagrees.

- 6. The answers with the day of death are all after the year 2025, with 90% of answers after 2040, to ensure that it does not cause any possible alarm.*
- 7. There are numerous websites and iphone applications on this very topic.*

8. *All complaints are from people who clearly understand it is an entertainment service, and we have taken all possible steps to ensure that ALL people understand this and there is clear evidence that this is the case.*
9. *There were some complaints about customers confronted with death, however, there are multiple campaigns presenting car accidents, graphics scenes of cancer and dead people, these are running on tv since years. Death is not a taboo subject and our TVC does not include any graphic or unacceptable images.*

The TVC is presenting this service as a “gimmick” as an entertainment service. It is supported by the cartoon like graphics, the unrealistic example given, the disclaimer that clearly states it is entertainment and the overall presentation of the product. Moreover, as the results are not realistic, there is no chance of anyone believing the result and we have had no complaints from the huge sales we have had from this 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 complainants' concerns that the advertisement is tasteless, is unsettling in its lighthearted depiction of death, and is likely to cause distress to people who are suffering or have recently suffered loss. The Board also noted complainant concerns that the advertisement may be misunderstood by people with mental health issues.

The Board noted the advertiser's response that the product only provides dates after 2025 but observed that the date on the advertisement is 2012.

The Board agreed that some members of the community would find this advertisement unsettling. The Board also noted that some complainants expressed concern over the product itself rather than the manner in which the product is advertised. The Board noted that the advertisement is only shown after 8.30pm on free-to-air television.

The Board considered that the advertisement does clearly depict the product as being a novelty product, for entertainment purposes and despite the comment 'chillingly accurate' most people in the community would understand that the product is a novelty product. The Board considered it unlikely that any people in the community would be harmed by the product, particularly as the 'predictions' are a gimmick.

The Board also considered that the advertisement did not depict violence that is not justified by the product nor does it depict material that would breach prevailing community standards on health and safety.

The Board considered that the product is not a product targeted to children and that the advertisement is not directed to children and that therefore the AANA Code for Advertising to Children does not apply.

The Board considered that, although the product and the advertisement would be considered tasteless by some members of the community, there was nothing in the advertisement that contravenes the Code.

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