



## **CASE REPORT**

1. Complaint reference number	237/09
2. Advertiser	UltraCompany
3. Product	Mobile Phone/SMS
4. Type of advertisement	Pay 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**

This subscription television commercial 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:

*I find it highly inappropriate and offensive.*

*I was genuinely shocked and confronted by this ad. I believe it is against reasonable community values to advertise any product that promises to predict a person's death.*

*I am concerned that this ad could be:*

- Misleading and terrifying for child viewers to think that such a prediction is possible;*
- Distressing for viewers who may have a terminal illness;*
- Dangerous for viewers with depression/ suicidal tendencies, especially if they were to use the service and have a near-future date of death sent back to them. Please kill this ad! Thank you. Please kill this ad! Thank you for your time.*

*My objection to this ad is it was shown at a time when my children did see it and also there are a lot of people that have mental health issue, which can be dangerous if they are going through a bad time.*

## **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. 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.*

*5. 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.*

*6. There are numerous websites and iphone applications on this very topic.*

*7. 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.*

*8. 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.*

*Here is the script:*

*Some people live to be 100 but most don't, even 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 193040, example Dead Karl 1976 to 193040 and find out your day of death right now, ahahahahaha!*

## **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 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 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 breach section 2.2 or 2.6 of the Code.

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 some members of the community would consider the product and the advertisement tasteless, 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.