



## **CASE REPORT**

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| 1. Complaint reference number | 400/07                                      |
| 2. Advertiser                 | Telstra-Sensis Pty Ltd (Crackers the Clown) |
| 3. Product                    | Telecommunications                          |
| 4. Type of advertisement      | TV  |
| 5. Nature of complaint        | Violence Other – section 2.2                |
| 6. Date of determination      | Tuesday, 11 December 2007                   |
| 7. DETERMINATION              | Dismissed                                   |

## **DESCRIPTION OF THE ADVERTISEMENT**

This television advertisement opens on a couple using the Yellow Pages to choose entertainment for their son's 8th birthday party. They hire Crackers the Clown, who at the party, is being kicked, punched, pummelled and generally jumped on by the party children. As we hear a crack, Crackers tells the boy "Get your Mum. No, seriously, get your Mum." Crackers looks very weary as he leaves the party, being thanked by the boy's mother who slaps him on the back, causing him to wince in pain. Crackers himself is then seen checking the Yellow Pages for a chiropractor for his back, where the therapist advises that if the injury was caused by a child, maybe he should "get into shape." Crackers checks the Yellow pages for a fitness store and when we see him in one, he is approached by a staff member who happens to be the mother of the boy for whose party he was previously hired. She recognises him as the clown, then suddenly her boy runs to the clown shouting "Crakers the Clown!", causing Crackers to groan and hold his back. A voiceover asks "Need a hand? Use yellow."

## **THE COMPLAINT**

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

*I am a children entertainer and it is not ok to have children abuse us, kick or jump on us. I have a few friends who have been hurt doing parties, and therefore I feel that this image that sensis is portraying is that it is ok to hurt people. It is not ok specially when this is our income. And we dont work to get hurt... the bully fighting aspect of hurting someone who is supposed to bring happiness.*

*Not only does this ad encourage violence toward the clown, but it scares me because I am a childrens entertainer who usually goes out dressed as a clown and entertains children at birthday parties. Every time I see that commercial I cringe, as it is showing young children what is acceptable behaviour when they see a clown. I don't understand the logic in coming up with a commercial like that, and it really makes me scared to resume working because if any children did that to me, it could cause some very serious damage. I really do hope that no clowns are hurt due to this add, but I do know for a fact that it is having an effect on other performers. I heard of one instance that happened on the weekend where the entertainer quoted the following "I did a party on Sunday with the worst behaved Kids and parents EVER! They quoted that add, ATTACK THE CLOWN, my hubby was holding one at arms length as the cherub tried to kick him in the chest. Mum and dad sat watching, drinking and thinking it was all just soooooo funny." This is proof that it is encouraging some young children to be violent towards clowns, and parents sit by and think it is funny. If yellow pages thought that this scenario was so funny, how would they feel if the add showed children jumping on a staff member from Yellow Pages - Would it still be funny and amusing then?*

## **THE ADVERTISER'S RESPONSE**

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

*We have reviewed the Advertisement in light of the complaints, and do not consider that the Advertisement contravenes the Ethics Code or the Children's Code as alleged.*

*The complainants allege that the Advertisement encourages violence towards clowns and children's entertainers. In Sensis' view, the Advertisement does not condone any form of physical abuse or violence, nor does it explicitly or impliedly encourage violence towards clowns. Instead, the purpose of the Advertisement is to portray a situation in a comical and light-hearted manner to demonstrate the utility of the Yellow™ Directory in a range of situations (in this case, finding a clown, a chiropractor, and a gym).*

*We do not think that the Children's Code applies to the Advertisement, but even if it does, we do not think that the Advertisement contravenes the Children's Code.*

*One complainant has alleged that the Advertisement contravenes section 2.3 of the Children's Code. In Sensis' view, the Advertisement is not an "Advertisement to Children" as defined under the Children's Code since it is not an "advertisement which, having regard to the theme, visual and language used, are directed primarily to Children" nor is the product advertisement "goods, services or facilities which are targeted toward and have principal appeal to children". Instead, the Advertisement is aimed at an adult audience in order to encourage them to use the Yellow™ Directory in everyday events.*

*Notwithstanding the above, even if the Children's Code were to apply, we do not think that Advertisement contravenes section 2.3 for the reason that it does not portray events which are frightening or distressing to children (there is no suggestion in any of the complaints provided that children find the Advertisement frightening or distressing), nor does it demean any person on the basis of ethnicity, nationality, race, gender, age, sexual preference, religion or method or physical disability.*

*Sensis does not consider that the Advertisement is responsible for motivating or shaping children's behaviour towards clowns. Rather, the Advertisement is meant to depict, in a comical manner, a situation with which many viewers may be familiar (namely, a children's birthday party, with noisy, excitable children), and the events that ensue, with a humorous twist. Furthermore, Sensis does not condone any type of abuse or violence, whether that be directed towards clowns, children's entertainers or anyone.*

## **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' concern that the advertisement encourages violent and inappropriate behaviour.

The Board considered whether the advertisement comes within the AANA Code for Advertising to Children. The Board considered that the Yellow Pages advertisement is clearly an advertisement directed to adults and is for a product that is not targeted to children (ie: Yellow Pages). The Board determined that the advertisement did not come within the Code for Advertising to Children.

The Board then considered whether the advertisement breached section 2.2 of the Code by depicting unjustifiable violence. The Board considered that the actions of the children are seen to be exaggerated and unusual and that most viewers would consider this behaviour unacceptable in a real life. In the context of this advertisement the Board considered that the behaviour was linked to the Clown suffering from a bad back and needing to use the product a number of times. The Board considered that most people would not find that this advertisement condones or suggests similar treatment in real life to child entertainers or to any person. The Board considered that the images of the children attacking the clown were likely to be seen as exaggerated and humorous in the context of the advertisement, and that these images were not in breach of section 2.2 of the Code.

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