



CASE REPORT

- | | |
|-------------------------------|--|
| 1. Complaint reference number | 451/06 |
| 2. Advertiser | Pepsico Australia Holdings Pty Ltd (Pepsi Max) |
| 3. Product | Food & Beverages |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Discrimination or vilification Ethnicity – section 2.1
Discrimination or vilification Religion – section 2.1
Violence Other – section 2.2
Other - Causes alarm and distress to children |
| 6. Date of determination | Tuesday, 14 November 2006 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a group of executives around a Boardroom table being offered a Pepsi Max by a young man making a presentation promoting a toy which is offered as the next season's best seller – a toy clown holding a chainsaw, which when turned on keeps repeating the phrase "Be my friend. Be my friend". As one executive asks "Are you sure?" the presenter, clearly alluding to the Pepsi Max replies "Don't worry. There's no sugar". The scene then shifts to a parcel placed under a Christmas tree in a home, with background music of a choir singing "Oh Tannenbaum". Suddenly the noise of a chainsaw is heard as the clown starts to saw its way out of the wrapped box and rolls along the floor repeating "Be my friend. Be my friend" as it saws down the Christmas tree.

THE COMPLAINT

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

The commercial is deeply offensive and insulting on a religious level particularly to members of the Christian faith who celebrate Christmas as their highest annual religious festival. (Breach of Section 2.1) - It is deeply offensive and insulting on an ethnic level to members of the community who celebrate Christmas as part of their Australian and European cultural tradition. (Breach of Section 2.1) - The commercial may be very disturbing to children in implying that Christmas is something to be feared as it is depicted as having a strong association with scary chainsaw wielding clowns coming out of presents. (Breach of Section 2.1) - The invitation "be my friend" implicitly calls on viewers (including children) to approve of and join in the violent destruction of the institution of the family as well as the Christmas tradition which is followed by the majority of the Australian community. (Breach of Section 2.1 and 2.2) The fact that the objectionable actions in this commercial are carried out by an animated toy rather than a human being is of little relevance especially considering that the animated toy can speak, move and is made to look like a human clown. Furthermore, the actions of the toy are implicitly endorsed by the gentleman introducing it.

THE ADVERTISER'S RESPONSE

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

The ad is intended to be a humorous parody of the commercial world, specifically the toy industry, famous for its constant pursuit to release each year's most successful toy in the lead up to the boom Christmas retail period.

The tongue in cheek theme and "don't worry" positioning shown in the "Clown" commercial is

replicated in the six other ads in the campaign, including “Taxi”, “Glueboy” and “Run Rabbit”. The current commercial sits in the context of a long history of Pepsi Max advertising featuring humorous, hyper real or fantasy situations, none of which consumers have ever meant to consider “real”.

Pepsi does not seek to promote concepts, imagery or language that could offend or distress consumers. Pepsi seeks to ensure its marketing and business activities reflect prevailing community standards.

THE DETERMINATION

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

The Board viewed the advertisement and considered the complainant’s comments that the advertisement was offensive on the various contended bases. The Board noted the depiction of the toy clown and noted that the advertisement was intended to be humorous.

The Board considered whether the advertisement breached section 2.1 of the Code dealing with vilification of sections of the community, in this case, Christians or others who celebrate Christmas.

The Board noted the depiction of Christmas but did not accept that the depiction of an out-of-control toy clown in any way vilifies or discriminates against Christians or others. The Board hence determined that the advertisement did not breach Section 2.1 of the Code.

The Board then considered whether the advertisement breaches section 2.2 of the Code dealing with violence.

The Board rejected the idea that an out-of-control toy clown with a chainsaw that was clearly depicting fantasy would be offensive to the community in general, or that such a fictional image would encourage violence.

The Board rejected the idea that the depictions in the advertisement would lead children to believe that Christmas should be feared.

The Board also rejected the notion that the advertisement implicitly calls on viewers to approve of and join in violent behaviour, or to join in the destruction of the institution of the family or the tradition of Christmas.

The Board hence determined that the advertisement did not breach Section 2.2 of the Code relating to violence.

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