



CASE REPORT

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| 1. Complaint reference number | 98/09 |
| 2. Advertiser | PBL Media - Channel 9 |
| 3. Product | Television Series |
| 4. Type of advertisement | Outdoor |
| 5. Nature of complaint | Violence Other – section 2.2 |
| 6. Date of determination | Wednesday, 8 April 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This Outdoor Billboard promotes the Channel Nine television series *Underbelly* – a tale of two cities. The photograph shows the background silhouette of Sydney City CBD. The foreground displays the image of a character (Christopher Flannery) holding a fist full of money in his left hand and a pistol in his right hand.

THE COMPLAINT

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

It is inappropriate for me as a driver, on my way to work to have a picture of a gun waved in my face. It is inappropriate for children to see the image. Completely unnecessary, I believe people are free to watch what they want, if Underbelly appeals to them that's ok, but I don't need to be forced to have a picture of a gun in my face as I'm travelling in my car. I would appreciate your assistance in upholding standards in society.

THE ADVERTISER'S RESPONSE

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

I write in relation to your correspondence of 11 March 2009 regarding a complaint received by Advertising Standards Bureau in relation to an advertisement promoting a Channel Nine ('Nine') program, "Underbelly A Tale of Two Cities" (the 'Advertisement'). A Copy of the Advertisement is attached.

You have asked Nine to address whether the Advertisement raises any issues under section 2 of the Advertiser Code of Ethics (the 'Code') or other Codes incorporated in it, such as the AANA Code for Advertising to Children. Nine is happy to respond to your request.

At the outset, Nine maintains that having regard to the imagery and theme of the Advertisement and considering the Advertisement is for a program classified M, Nine maintains the Advertisement is clearly not "primarily directed at children" within the meaning of 2.4 of the Code. Consequently, in Nine's view, the Code of Advertising to Children does not apply.

Nine considers therefore that the only part of the Code that could be potentially relevant to the Advertisement is section 2.2, which states that advertisements shall not portray violence "unless it is justifiable in the context of the product or service advertised".

*The image used in the Advertisement is one of the official promotional graphic for the second instalment of the television series *Underbelly*. The series depicts a violent episode in Australian history in which criminal elements battle to maintain control of the illicit drug trade. It is based on*

actual events. The image on the Billboard depicts one of the main characters, Chris Flannery, who in the series is an aspiring hit man who moves to Sydney to offer his services as a contract killer to the criminal 'king pins'.

In the past, Nine understands the Advertising Standards Board (the 'Board') considered the use of similar images in billboard advertisements. Most relevantly, the Board addressed the issue in relation to the Telstra "Scarface" campaign, where the Board considered that the image of Al Pacino holding a gun was "not overtly violent as it contained no depictions of blood or people being injured by the gun".

While acknowledging the advertisement was visible by children, in that instance the Board considered that the image of a gun was not per se a breach of the Code.

Nine submits that the image in the Advertisement is comparable. Nine maintains the image has a low visual impact and disagrees that the character is pointing the weapon at drivers. Nine notes there is no actual depiction of violence or strong sense of menace. It is clear from the image that gun is not actually being fired and is being depicted in a manner in keeping with the theme of the series.

Having regard to the above, Nine believes that the context of the Advertisement is self-explanatory and is justifiable by the context of the program in accordance with clause 2.2 of the Code. On this basis Nine maintains that the Advertisement is not in breach of the Code.

Nine would be happy to provide further comment if required. Please contact me on 9965 2044 if you have any questions or further concerns.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board considered the application of Section 2.2, relating to violence. The Board noted that the advertisement related to a television series which is classified 'M'. The Board considered that the image would be disturbing to some people, but that the person depicted in the advertisement is a well known actor and that the community would be likely to recognise the advertisement as a promotion for a programme or film which lessened its impact. The Board also noted that there is no actual depiction of violence or its consequences or a strong sense of menace.

The Board considered the graphic nature of the image was directly relevant to the film advertised and the depiction was justifiable in the context of that product. The Board therefore found no 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.