

Case Report

1. Case Number :	0010-24
2. Advertiser :	Auto & General Holdings - Budget Direct
3. Product :	Insurance
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	24-Jan-2024
6. Decision:	Upheld – Modified or Discontinued

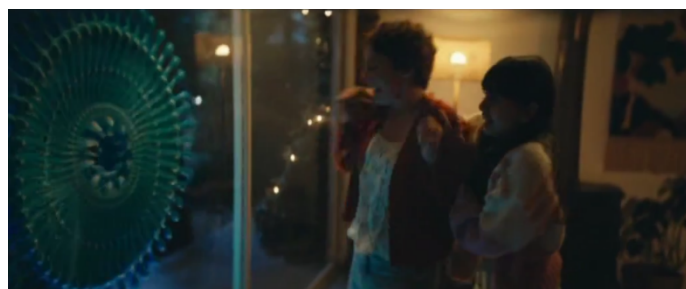
ISSUES RAISED

AANA Code of Ethics\2.3 Violence
AANA Advertising to Childrens Code\2.4 Frightening Images

DESCRIPTION OF ADVERTISEMENT

This advertisement features a pool cleaner which “comes to life” after being struck by bolt of lightning and which whirls about causing mess and damage to the home and home contents, terrifying its occupants.

The Budget Direct team come to the rescue. While the characters “Sarge” and “Jacs” approach the house, the dog “Chief” dashes off to assess the situation and, with her paw, presses the pool pump's kill-switch, bringing a halt to the pool cleaner’s rampage.



THE COMPLAINT

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

I have 2 children aged 6 and 7 who are both now scared of this add. I don't think it's appropriate to be on during the day

The Ad seems over aggressive and could infact be detrimental to the likes of young children and impressnable young adults. I found it offensive, and the violent type if damage was uncalled for. Channel 7two and the program Vicar of Dibley has just commenced.

It is the timing of the advert when children are around, and the level of terror/destruction being portrayed in the advert. I can understand that the advertiser is trying to grab attention, but this is too intense and graphic. Completely inappropriate for children. If it was in a show/movie, it wouldn't be 'G' rated so how come it can be airer when they are vulnerable.

I feel that the advert could cause anxiety to young children who watch the add as it depicts an aggressive event which in reality could not happen .

The advertisement depicts a rouge pool cleaner attempting to attack cause harm to the residence inside the house. This is terrifying to my child that is already scared of pool cleaners im heavily concerned it has affected her progression in swim school that has cost a arm and a leg to pay for. And im heavily concerned that this has destroyed her confidence in going anywhere near a pool..

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

The Advertisement

The Advertisement tells a fantastical and comical story of a tranquil family dinner being turned upside down by an out-of-control pool cleaner which "comes to life" after being struck by bolt of lightning and which whirls about causing mess and damage to the home and home contents. The family springs into action, ready to protect their property.

The Budget Direct team come to the rescue. While the characters "Sarge" and "Jacs" approach the house, the dog "Chief" dashes off to assess the situation and, with her paw, presses the pool pump's kill-switch, bringing a halt to the pool cleaner.

The theme of the Advertisement

We have an established history of creating TV commercials that show fantastical insurance events that are 'solved' by our 'Insurance Detectives'. Our strategy for developing these commercials is to take a familiar cultural observation and throw in an element of fantasy to create engaging insurance storylines. In the past Australia has seen a family home felled by a Jack Russell wielding a light-sword, a super powered leaf-blower create a minor cyclone event damaging properties, a faulty Mother's day bath-bomb fill a house and yard with destructive bubbles and riderless e-bikes and e-scooters rise up against humans.

This Advertisement is consistent with these themes. The Advertisement uses the fantastical device of the pool cleaner to add drama and fantasy to a storm event causing property damage.

The Advertisement is also a comedic treatment of the myth of the Loch Ness monster, as is evidenced by the title of the Advertisement, Loch-Mess.

Our "Insurance Solved" advertisements are well established having been on air since 2018. Our ongoing consumer research and tracking tells us that Australians understand our commercials are light-hearted and created to entertain, and that they feature exaggerated and fantastical elements. The ABC program Gruen Transfer recently spoke of this approach (Season 15, Episode 6).

Section 2.3 of the AANA Code of Ethics

The Advertisement is clearly theatrical, fantastical and intended to be humorous.

While it features the pool cleaner approaching and damaging the family home and the family defending themselves against the pool cleaner, this is done in a clearly fantastical and stylised manner. The oversized pool cleaner is brought to life by an exaggerated bolt of lightning and takes on sentient qualities as it whirls out of control in a comedic manner. This aligns with the fantastical themes prevalent in popular culture, such as the "rise of the machines".

These cinematic themes are heightened by the over-the-top and stylised visuals, music and sound effects. We also note that no person is depicted as being harmed or in pain, and there is no blood or gore depicted.

We submit that the majority of viewers would not consider this to be a depiction of violence, and would understand it to be fantastical and comical. This can be distinguished from advertising of realistic violence (for example, an advertisement for a film or video game).

If the panel does consider that the action sequences constitute violence, we submit that it is very mild and low-level for the reasons outlined above. We note that the

Practice Note to the Code of Ethics specifies that more leeway is permitted where the depiction is stylised rather than realistic. We refer to Panel Case 0442-16 as a relevant example of an advertisement where a level of violence depicted was not excessive and justifiable in the context of the product advertised.

We also note the deliberate dialogue between the two 'Insurance Detectives' that points out that something out-of-this-world is taking place. On seeing the mayhem, 'Jacs' notes to 'Sarge': "Pool cleaner's come to life Sarge" and in a play on common detective movie or TV series "one-liners" spoken by lead characters Sarge responds: "Not creepy at all eh".

As the detectives enter the home, upon looking at the pool cleaner, Sarge also says: "Oh that sucks."

The dead pan style is used to communicate that this is both comical and complete fantasy.

We also submit that these scenes are relevant to the promotion of home and content insurance and are justifiable in the context of the product being advertised. The emphasis of the Advertisement is on the damage to the home and contents, and the Insurance Detectives are holding up a "home and contents" policy.

Section 2.4 of the AANA Advertising to Children Code

We submit that the Advertisement is not "advertising to children" for the purposes of the Children's Advertising Code and, as such, the Children's Advertising Code does not apply to the Advertisement.

*Advertising to Children is defined in the Children's Advertising Code as:
"Advertising that targets Children and which is determined by the context of the advertisement and the following three criteria:*

- 1. Nature and intended purpose of the product being promoted is principally or significantly appealing to Children;*
- 2. Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is principally appealing to Children;*
- 3. Expected average audience at the time or place the advertisement appears includes a significant proportion of Children."*

The nature and intended purpose of the product being promoted is not principally or significantly appealing to children. The Advertisement promotes insurance products.

The presentation of the Advertisement content is not principally appealing to children. The Advertisement presents an engaging and entertaining insurance storyline

principally for an adult audience. This is demonstrated by its references to cultural observations, pop culture themes, language and humour which is targeted at adults (for example, Sarge's one-liners). The Advertisement does not feature any content with significant appeal to children. The themes, images, colours, wording, music, and language used in the Advertisement are not principally appealing to children.

The expected average audience at the time or place the Advertisement appears does not include a significant proportion of children. The TV Media strategy for this campaign is targeted towards the audience segment of people who are 25 years or older, as they fall within the segment of people who have the highest propensity to require the insurance services provided by Budget Direct. The selection of TV shows for this campaign is therefore targeted towards individuals who fall within this demographic.

We adhered to the ClearAds pre-approval process to ensure classification before the Advertisement was aired on free-to-air TV. The Advertisement was classified "G" for General audiences by ClearAds and aired during "G" rated time periods and programming.

Attached to this response is data which we have obtained in relation to the expected average audience.

Annexure A shows Oztam average audience breakdowns in the 2023 calendar year for the programming which was aired at the times that the Advertisement was shown, as cited by the complainants. The applicable column "Profile" shows that viewers between the 0-12 and the 13-17 age groups comprise between 3-6% of the projected audience profile for that programming.

Annexure B shows specific audience data relating to the shows or times that are mentioned in the complaints. This data was obtained from the TV networks and there are therefore some slight variances in the age brackets. We have provided notes relating to how the data has been captured for each complaint. Again, children comprised a very small percentage of viewers, ranging from 0-6%. We refer to Panel Case 0061-23 as a relevant example of an advertisement in respect of which the Children's Code did not apply.

If the panel considers that the Children's Code does apply to the Advertisement, we submit that the Advertisement is compliant with Section 2.4 for the reasons specified above in this response. The Advertisement does not portray unreasonably frightening or distressing images or events, and that the majority of children would understand that the Advertisement is fantastical, unrealistic and comedic.

Other sections of the Code of Ethics

We note that the Community Panel's consideration may not be limited to Section 2.3 of the Code or the specific issues raised by individual complainants. We submit that the Advertisement is compliant with all other sections of the Code. Particularly:

- The Advertisement does not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual orientation, religion, disability, mental illness or political belief*
- The Advertisement does not employ any sexual appeal.*
- The Advertisement does not portray any acts that are in reference to sex, sexuality or nudity.*
- The Advertisement does not include strong or obscene language.*
- The Advertisement does not depict material contrary to prevailing standards on health and safety.*
- The Advertisement is clearly distinguishable as advertising.*

We submit that no other codes are applicable to the Advertisement.

Final Comments

We take our responsibilities under the AANA Code of Ethics and the Children's Code seriously.

We regret if any member of the public was offended by the Advertisement, however we submit that the Commercial does not depict content contrary to prevailing community standards, and we request that the complaints be dismissed.

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement was frightening and inappropriate for broadcast at a time when children were watching.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel noted that for the provisions of the Children's Code to apply, the advertisement must be found to target children under 15 years of age.

Does the advertisement target children?

The Panel noted that the Children's Code defines "target children" as:

"Target Children is determined by the context of the advertisement and the following three criteria:

- 1. Nature and intended purpose of the product being promoted is principally or significantly appealing to Children;*
- 2. Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is principally appealing to Children;*
- 3. Expected average audience at the time or place the advertisement appears includes a significant proportion of Children."*

The Panel noted that the Practice Note provides guidance on the interpretation of "target children":

"All three criteria will be considered by the Community Panel in determining whether or not advertising targets Children. The weighting given by the Community Panel to each of the three criteria will be determined on a case by case basis. In the event of a complaint being considered by the Community Panel, the advertiser should be in a position to provide details in terms of the nature and intended purpose of the product, the presentation of the advertisement content and the expected average audience at the time or place the advertisement appears.

"In relation to the third criteria, measures to determine if Children are likely to be a 'significant proportion' of the expected average audience may include one or a combination of the following:

- Where data exists, 25% or more of the predicted audience will be Children. In relation to outdoor advertising, if across a campaign the data shows a predicted audience with less than 25% Children, and there is a Children's event or concert that is incidental to the ad placement, the audience of that incidental Children's concert or event will not be captured.*
- C&P programmes.*
- Programs, artists, playlists, video, movies, magazines or other content with significant appeal to Children (e.g. featuring personalities or characters popular with Children).*
- Compliance with the Outdoor Media Association Placement Policy and Health & Wellbeing Policy which regulate the placement of advertising at primary and secondary schools which are locations where Children regularly and predictably gather. Where accurate program audience data is not available, the Community Panel may have regard to other factors listed above such as the program content, the time or the location where the advertisement is being shown (in line with the above provision)."*

Point 1: Is the nature and intended purpose of the product principally or significantly appealing to children?

The Panel considered that the advertised product is an insurance provider and considered that this was a product which would not be principally or significantly appealing to children.

Point 2: Is the content of the advertisement principally appealing to children?

The Panel noted that the advertisement is detailing a scene in which a pool cleaning device comes to life and attacked residents of the home. The Panel noted that the advertisement is quite dark with action style music and considered that it would gain the attention of adults and children alike.

The Panel considered that the content of the advertisement has broad appeal, and was not principally appealing to children.

Point 3: Does the expected average audience of the advertisement include a significant proportion of children?

The Panel noted that the complainants were watching television at various times. The Panel also noted the advertiser's statements regarding their media buy and overall considered that the audience for the advertisement would not include a significant proportion of children.

Targeting children conclusion

The Panel considered that the product would not have significant appeal to children, the content of the advertisement was not principally appealing to children and audience for the advertisement would not include a significant portion of children. The Panel determined that the advertisement did not target children and therefore the provisions of the Children's Code did not apply.

Section 2.3: Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

The Panel noted that the Practice Note for this section of the Code states:

"In considering whether the violence or menace depicted in an advertisement is justifiable, the Community Panel may have regard to the audience of the advertisement. Graphic depictions of violence or a strong suggestion of menace have been found to present violence in an unacceptable manner especially when visible to a broad audience which includes children. For example, advertising for

violent or horror movies, tv shows or video games should take care not to include images that give the impression that a character has just committed violence against someone (for example, a weapon with dripping blood), was the victim of violence (for example, freshly severed limbs) or is about to commit violence against someone (for example, gun aimed directly at a person or the viewer) where there is a broad audience which includes children. More leeway is permitted where the depiction is stylised rather than realistic.”

Does the advertisement contain violence?

The Panel noted that the advertisement featured imagery of a pool cleaner destroying a poolside structure and appearing to attack residents of the home, who appear visibly frightened.

The Panel considered that the advertisement contained a level of menace and destruction of property that may be considered violence by some members of the community.

Is the violence portrayed justifiable in the context of the product or service advertised?

A minority of the Panel noted that no-one is harmed in the advertisement, and it is a fantasy scene in which a pool cleaner comes to life. The minority considered that it is consistent with other advertisements in the series that play on an “X-Files” theme. The minority considered that the violence is very mild and the fantasy style makes the depiction reasonable in advertising a service in which insurance coverage is provided for unexpected events which result in damage to property.

The majority of the Panel noted that the scenes are brief but considered that there is a moderate level of menace in this advertisement. The majority considered that there is a high level of tension due to the music choice and the dark imagery, and there is an ongoing threat to the occupants of the house, including children.

The majority of the Panel considered that while the advertisement is clearly unrealistic, the advertisement does depict a violent and frightening scene in which people are threatened. The Panel considered that the depiction of a family being attacked was not justifiable in the promotion of an insurance service.

Section 2.3 Conclusion

The Panel determined that the advertisement did present or portray violence which was not justifiable in the context of the product or service advertised and did breach Section 2.3 of the Code.

Conclusion

Finding that the advertisement did breach Section 2.3 of the Code, the Panel upheld the complaints.

THE ADVERTISER'S RESPONSE TO DECISION

We acknowledge the decision of the Panel.

We are pleased that the complaints relating to the Children's Code have been dismissed.

While we respectfully disagree with the Panel's decision in relation to the Code of Ethics, we confirm that we will discontinue the 45 second edit of the Loch Mess TV advertisement on both free to air and pay TV.

We note that the Panel commented that there is a brief scene which depicts a family being attacked which was not justifiable and in breach of Section 2.3 of the Code. The 30 second and 15 second edits of the advertisement do not depict family members being attacked and will remain on-air.