

Case Report

1. Case Number :	0059-24
2. Advertiser :	Telstra Limited
3. Product :	Telecommunications
4. Type of Advertisement/Media :	Cinema
5. Date of Decision:	6-Mar-2024
6. Decision:	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.3 Violence

DESCRIPTION OF ADVERTISEMENT

This cinema advertisement is stylised like a horror movie and shows someone digging a hole in the rain, with a body nearby.



THE COMPLAINT

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

The ad starts with rain and someone digging a hole in the ground assuming a grave as a dead body is on the ground wrapped in a carpet. A phone starts ringing and they look up from the hole at where the phone is ringing from and realise it's on the dead

person they are about to bury, they then move to the next scene and it's still raining and up pops this ad, turn your phone off. It is disgusting to watch this ad knowing this is how Jill Meagher was buried and they found her by a phone pinging, she was buried near Sunbury in a shallow grave. This ad reminds anyone of that terrible rape, murder, burial and trial. How awful for me watching this ad, the whole of Victoria and Australia, everyone who knows of this rape and murder not to mention if her family members saw this ad in the pictures

Like I did. How upsetting for anyone and the implying of what to do if you have a dead body is shocking. The implying of check their pockets for a phone before you chuck them in the hole. So bad. It should be removed from all screens and Telstra should be made to apologise. The ad was very upsetting for me and those sitting around me and I am not connected in any way with Jill Meagher but I among millions of people know the circumstances of her rape murder burial and the trial, as well as the circumstances of the phone being on her while she was buried and I find an ad insinuating a killer should check someone's pockets for a phone for an ad is disgusting.

THE ADVERTISER'S RESPONSE

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

We refer to your letter attaching a complaint received by the Advertising Standards Board about our Turn Off Your Phone cinema creative.

Telstra ('We') is a voluntary member of the Advertising Standards Board. Community standards are important to us and what we do. We take care to set a standard not only for ourselves but for our industry. In doing so, we ensure that the preparation and publishing of our advertising material is compliant with the AANA Advertiser Code of Ethics ('Code').

We have provided the information requested in your letter below. We follow with responses to each of the parts of section 2 of the Code to assist your panel's consideration of the advertisement.

In short, we want to assure the Advertising Standards Board that we in no way condone the portrayal of violence in any shape or form. Our view is that the content and context of this advertisement is such that it does not portray nor present violence in a manner that breaches the Code. Further, we do not believe that it breaches any of the other parts of Section 2 of the Code. We set out our reasons below.

Description of the Advertisement:

The concept for the advertisement is to cue the attention of the cinema going audience by mimicking the title credits of a movie. Over the top of "establishing shots", we juxtapose titles that are instructions for the cinema audience to turn off their phone. This is a public address/instruction rather than an advertisement of a product.

In this particular version of the creative (played only in front of MA15+ movies) we have the opening titles of a thriller movie. It is a dark rainy night, tense, suspenseful music plays over a panning shot of someone suspiciously digging in the dark. As the camera finally comes to rest we see a pair of legs at the edge of the frame (the implication being that this is a body) and as the music crescendos and lightning flashes overhead, the title treatment appears in a font often used in horror films, Turn Off Your Phone.

Response to complaint according to clauses of Code

2.3 – Violence

This creative does not portray violence in a way that breaches the Code.

Pertaining to the context of the product or service being advertised – the intention of this creative is not to advertise a product or service. The intention of this creative is to brand a public service announcement. Cinemas wish to instruct the audience to turn off their phone to enjoy the movie, we (Telstra) wish to associate ourselves with a moment in time that is centered around mobile phone use (albeit turning it off).

This context is important because our objective with this creative is to ensure that we have the attention of the audience to best land that public announcement. A big part of this context is the menacing/suspenseful music. The menacing/suspenseful music and tone of the creative helps us achieve this and in the context of mimicking an actual thriller movie is justifiable. The tone attempts to momentarily hoodwink the audience with the thought that the movie might be starting as the opening credits roll.

There is no violence within the ad, no implied violence through blood and gore. There are legs which given the context clues can be assumed to be a body. There is no evidence of violence having just been committed, no weapon with dripping blood, nor severed limbs.

Perhaps most importantly, this creative is for cinemas only and pursuant to our direction, it is only played in MA15+ audiences, ie not children.

2.1 – Discrimination or vilification

There is no depiction of discrimination or vilification within this creative.

2.2 – Exploitative or degrading

There is no exploitative or degrading content within this creative.

2.4 – Sex, Sexuality, and nudity

There is no use of sex, sexuality or nudity contained within this creative.

2.5 – Language

The advertisement does not contain any strong or obscene language. Neither the script on screen nor the imagery contains strong or obscene language.

2.6 – Health and Safety

We do not believe that this creative in any way encourages people to act in a way contrary to prevailing Health and Safety guidelines.

2.7 – Distinguishable as advertising

We believe that this advertising is distinguishable as advertising. We acknowledge that the creative idea is supposed to momentarily catch the audience's attention into thinking that this is the start of a movie, in order to get the audience to look up from their mobile phones and pay attention to what is on screen. Given the purpose of the message, we believe this is in within the spirit of 2.7, in particular the flexibility of advertisers as to how to ensure the material is distinguishable as advertising which is clear through the prominent branding/Telstra logo at the end.

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 complainant's concern that the advertisement depicts someone burying a dead body in a manner reminiscent of a real murder.

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

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:

"Although the depiction of violence in an advertisement may be relevant to the story being told in the advertisement, any violence must also be justifiable in the context of the product being advertised, or else will be in breach of this section of the Code... The results or consequences of violence (e.g. a black eye) and audio representations of violence may also be prohibited."

Does the advertisement contain violence?

The Panel noted that the Code and the Practice Note do not provide a definition of violence. The Panel noted that they needed to consider whether the general community would consider this ad to portray violence.

The Panel considered that the advertisement is dark and has a sinister feeling, and the depiction of a deceased person's lower body is confronting imagery. The Panel

considered that the advertisement depicted the aftermath of violence through the suggestion that a murder had taken place.

The Panel considered that most people would consider this advertisement to contain violent imagery.

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

The Panel noted the complainant's concern that the advertisement depicts someone burying a dead body in a manner reminiscent of a real murder, and that it was a suggestion that people should check murder victims for phones before burying them to avoid detection.

The Panel acknowledged that people affected by this or similar crimes could find the advertisement upsetting. The Panel however considered that overall, the advertisement reflected a scene which might take place in a scary movie, and there was no clear link to, or depiction of, a real crime.

The Panel noted that the advertised product is a message for people to turn off their phones before a movie.

The Panel noted that a similar issue had been considered in case 0134-23, in which:

"The Panel considered that the violence in the advertisement was clearly intended to be comedic and was not overly graphic. However, the Panel noted that any violence in the advertisement must be justifiable in the context of the product being advertised, and not the scenario depicted in the advertisement. The Panel considered that the depiction of a dead body was not justifiable in the promotion of a laxative product."

Consistent with the previous determination, a minority of the Panel considered that the high level of violence in the current advertisement was not justifiable to promote a message about turning off phones in a movie theatre.

The majority of the Panel considered that the advertisement was highly stylised to look like a movie trailer and was utilising a creative way to get its message across. The Panel considered that the advertisement appeared as a horror movie trailer, and that this was justifiable in the context of promoting a message to turn off phones in a cinema before MA15+ rated movies.

Section 2.3 Conclusion

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

Conclusion

Finding that the advertisement did not breach any other section of the Code, the Panel dismissed the complaint.