

Case Report

1. Case Number :	0302-24
2. Advertiser :	Myer Pty Ltd
3. Product :	Retail
4. Type of Advertisement/Media :	Internet - Social - YouTube
5. Date of Decision:	20-Nov-2024
6. Decision:	Dismissed

ISSUES RAISED

AANA Advertising to Childrens Code\2.1 Prevailing Community Standards
AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.3 Violence
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

There are three versions of this YouTube advertisement.

Version 1 (60 seconds) features a child on a man's shoulder placing a star on top of a Christmas tree in the yard. An animated purple creature (Humbug) knocks the tree over from behind. The Humbug knocks over Christmas decorations in the garden and pulls the power to turn off lights. A child is watching from a window laughing. The Humbug sets fire to a Santa decoration and then stomps on a Christmas bauble and hurts its foot. The child takes a present to the Humbug who opens the present and finds a pair of boots. The Humbug and the child are seen stomping and smashing Christmas baubles together. The words "Myer my store. Share the joy. Gifts for the naughty and the nice" appear at the end of the advertisement.

Version two (30 seconds) and three (15 seconds) are shorter versions of the above events.



THE COMPLAINT

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

Anti Christian Advert for Christmas. If pride was disrespected the same way people would be very upset. Christmas is about Jesus Christ not anti Christ. Respect is a two way street. Please have this ad campaign removed. It's teaching Children bad morals. Thank you

THE ADVERTISER'S RESPONSE

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

Myer marketing campaign and strategy during the festive season is typically fun, exaggerated or fantastical mixed with relatable humour to reach its target audience and deliver engaging and memorable ads. The "Share the Joy" Humbug campaign is in line with this strategy. There are three versions of the advertisement - 15 seconds, 30 seconds and 60 seconds and was broadcasted on a number of mediums including TV Free to Air, TV on Demand, digital social including YouTube etc.

Myer's "Share the Joy" Christmas campaign embraces fun, the unexpected, a little mischief and the joy of Christmas, however one finds it. The ad is intended to be a fantastical account or representation of a typical cohort of people that don't enjoy the festive season. In the ad, the fictional Humbug is the characterisation of this group designed specifically to cause exaggerated merry mayhem in the neighbourhood by pushing over the Christmas tree, unplugging the lights, and unwisely stomping on baubles - hurting his fluffy feet. A girl then gifts the Humbug a pair of black boots that match her own as a gesture of friendship and inclusion, proving joy is always better shared.

The final scene intentionally depicts the young girl joining the Humbug in stomping baubles rather than the expected softening of the Humbug to conform to Christmas tropes delivering a light-hearted twist. To reinforce this light hearted twist, a family quizzically watches at the unexpected turn of events.

The intent of the ad is to remind everyone that Christmas isn't just for tinsel lovers and carol-singers. Whether a mistletoe maniac or a Christmas grinch, Myer has something for everyone. Because the true magic of the season isn't in the stuff – it's in the joy that is shared when together.

The creative approach of the ad was to depict the Humbug's actions as fantastical and playful, with no realistic portrayal of harm or damage. The character's behaviour is

not intended to be perceived as dangerous or violent but rather as an innocent, humorous display of holiday mischief as part of the character's journey. The overall message emphasises that kindness and friendship can help Humbug—and by extension, everyone—feel included and appreciated during the festive season.

Humbug's interactions with decorations in the ad portray a whimsical, exaggerated character struggling to navigate the holiday environment. These scenes are designed to convey light-hearted humour, allowing Humbug's character to find acceptance and friendship rather than judgment. The campaign promotes positive holiday values of kindness and understanding, especially for individuals who may see the world differently.

Humbug's transformation from a holiday sceptic to a joyful participant is a common narrative in Christmas stories, and the aim of the ad was to deliver this message with a fresh perspective that reflects Myer's commitment to inclusivity and to "Share the Joy". In showcasing the Humbug character, the aim was to remind audiences of the importance of empathy, acceptance, and extending kindness to those who may experience the world differently, particularly during the holidays.

Having considered the ad and the complaints, as well as the requirements of the AANA Code of Ethics and AANA Children's Advertising Code, Myer respectfully submits that it does not believe that the ad contravenes the Codes, rather the ad is a playful and mischievous depiction of the characters journey towards acceptance, kindness, friendship and the importance of sharing during the festive season.

2.1 Prevailing Community Standards under the AANA Children's Advertising Code
The ad is a playful depiction of a character that embodies a relatable perspective of people who do not naturally enjoy the festive season. The Humbug's interactions with decorations in the ad depict a whimsical, exaggerated character struggling to navigate the holiday environment. These scenes are designed to convey light-hearted humour, allowing the Humbug's character to find acceptance and friendship rather than judgment. The campaign promotes positive holiday values of kindness and understanding, especially for individuals who may see the world differently.

The overall intent of the ad is to create a fun metaphor that brought to life Myer's unique strength as a gifting destination. Gifts for the naughty and the nice", "Put a humbug in their happy place", "It's not just the thought that counts", and "All they want for Christmas isn't just you" – a playful twist to Christmas embracing joy and mischief. In line with this, the ad is not specifically targeted at children but rather the purchaser in the household which is generally an adult.

Section 2.1 - Discrimination or Vilification (Religion)

The Code practice notes prohibit the discrimination or vilification of any individual or group of people on the basis of religion. The "Share the Joy" ad does not focus on any

particular race, religion or group of people or communities. The complainant alleges that the advertisement is disrespectful against or vilifies persons of the Christian faith on account of their own religious beliefs. Myer strongly believes this is not the case.

Australia is a multi-cultural society and celebrates all cultural events. In support of this, Myer is committed to inclusivity and diversity. The Humbug character was created to represent a relatable perspective for those who may not naturally enjoy the holiday season. The character's journey is intended to promote acceptance, kindness, and friendship, fostering a message of inclusivity for viewers of all backgrounds, religions and attitudes.

On this basis, Myer does not consider that the ad treats religion in a manner that is unfair or less favourable which discriminates against or vilifies a person or section of the community on account of religion and on the contrary celebrates the festive season that is shared amongst the community.

Other codes

Myer submits that the ad does not breach other sections of the Code as –

2.2: no images of sexual appeal

2.3: no violence that meets the threshold of violence under the Code

2.4: no reference to or depiction of sex, sexuality or nudity

2.5: no strong or obscene language

2.6: does not condone unhealthy or unsafe behaviour that meets the threshold of contravening prevailing community standards

2.7: content is clear that it is advertising

Based on the above, Myer believes and recommends that the Board dismiss the complaint.

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether the versions collectively forming this advertisement breach Section 2 of the AANA Code of Ethics (the Code) and the AANA Children's Advertising Code (The Children's Code).

The Panel noted the complainant's concerns that the advertisement disrespects Christianity and depicts inappropriate behaviour for children to mimic.

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)."*

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

The Panel considered that the advertisement is not promoting a particular product, but rather the Myer brand. The Panel considered that Myer is a department store selling a range of different products, which includes children's clothes and toys. However, the Panel considered that the store would be most appealing to adult

shoppers and the brand is unlikely to be principally or significantly appealing to children.

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

The Panel noted the advertiser's response that the advertisement was targeted towards the household shopper, who is usually an adult.

The Panel considered that the main characters in the advertisement are a fluffy, pink creature and a child, and this along with the Christmas theme would be appealing to children. However, the Panel considered that the theme of being grumpy around the holidays and the humour in the advertisement was targeted more towards an adult audience.

The Panel considered that while the advertisement would be appealing to children, it 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 advertisement appeared on YouTube. The Panel noted that the advertiser had not provided information on the targeting parameters for the placement of the advertisement, or the likely audience. However, the Panel noted that there is a specific YouTube Kids channel for children under 13, and the advertisement had not been viewed on this channel. The Panel considered that while many children watch videos on YouTube, the platform is popular with people of all ages. The Panel considered that it is unlikely that the expected average audience of the advertisement includes 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
- audiences for the advertisement would be unlikely to include a significant proportion of children.

The Panel therefore found that the advertisement did not target children and the provisions of the Children's Code do not apply.

Code of Ethics Section 2.1: Advertising shall not portray 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 Panel noted the Practice Note to Section 2.1 provides the following definitions:

- *Discrimination – unfair or less favourable treatment.*
- *Vilification – humiliates, intimidates, incites hatred, contempt or ridicule.*
- *Religion – a belief or non-belief in a faith or system of worship*

The Panel noted the Practice Note to Section 2.1 states:

Advertising which shows members of a certain group as ridiculous, unintelligible or unable to recognise a dangerous situation incites ridicule towards their behaviour.

A negative depiction of a group of people in society may be found to breach Section 2.1, even if humour is used. The depiction will be regarded as a breach if a negative impression is created by the imagery and language used in the advertisement of a person or group of people on the basis of a defined attribute listed above. Advertisements can humorously or satirically suggest stereotypical aspects of a group of people in society provided the overall impression of the advertisement does not convey a negative impression of people of that group on the basis of one or more of the attributes listed above.

The Panel acknowledged that Christmas holds a religious significance for Christians as a celebration of the birth of Christ. However, the Panel considered that the advertisement draws on the themes associated with the commercial aspects of the holiday season rather than its religious elements.

The Panel acknowledged that some people of the Christian faith may find the themes in the advertisement objectionable. However, the Panel considered that the content of the advertisement itself does not humiliate, intimidate or incites hatred, contempt or ridicule of Christians, nor does it portray Christians as being treated unfairly or in a less favourable manner. The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of religion.

Section 2.1 conclusion

The Panel found that the advertisement did not breach Section 2.1 of the Code.

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

Does the advertisement contain violence?

A minority of the Panel considered that the depiction of property damage, including setting something on fire and deliberately breaking things, was a depiction of violence.

The majority of the Panel considered that the advertisement was humorous and unrealistic, and there was no sense of menace or threat in the advertisement. The Panel considered that the advertisement did not contain violence.

Section 2.3 Conclusion

The Panel concluded that the advertisement did not present or portray violence and did not breach Section 2.3 of the Code.

Code of Ethics Section 2.6: Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.

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

“Advertisers should take care not to depict behaviour that children may imitate. For example, advertisements which are likely to attract the attention of children or could indicate to children that appliances or other domestic/commercial equipment are a safe place to hide, are seen to encourage unsafe behaviour.

Advertisements which feature exaggerated or fantastical elements, which are unlikely to be seen as realistic by the relevant audience, are unlikely to be found to be encouraging or condoning unsafe behaviour.”

A minority of the Panel considered that smashing ornaments without eye protection is dangerous, especially if they are made of glass. The minority of the Panel also considered that showing someone deliberately setting fire to a decoration is depicting behaviour which would be unsafe if copied.

The majority of the Panel considered that the advertisement features an animated pink creature and is clearly fantastical and unlikely to be seen as realistic behaviour. The Panel considered that the advertisement is unlikely to be found to be encouraging or condoning unsafe behaviour.

The Panel considered that the advertisement did not contain material contrary to Prevailing Community Standards on health and safety.

Section 2.6 conclusion

The Panel considered that the advertisement did not breach Section 2.6 of the Code.

Conclusion

Finding that the advertisement did not breach any other section of the Children's Code or the Code of Ethics the Panel dismissed the complaint.