

## Decision of the ADVERTISING REGULATORY BOARD

Complainant	Rivashne Peters
Advertiser	Clientèle Life Assurance Company Limited
Consumer/Competitor	Consumer
File References	854 - Clientèle Health - Rivashne Peters
Outcome	Upheld (watershed scheduling required)
Date	7 August 2020

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Rivashne Peters against a Clientèle Health television commercial.

### Description of the advertising

The commercial starts with a male voice singing about the actions of animated characters depicted in different accident causing scenarios, with all the depicted characters ending up in hospital, standing on beds, and singing about their plight, together with an animated nurse and doctor. This hospital scene is followed by three other scenes, including that of an animated baby sucking a pacifier and being electrocuted after sticking its finger in an electric outlet, whilst a male voice sings: *"Your kid experiments with a plug"*.

## Complaint

In essence, the Complainant is of the view that the commercial is setting a dangerous example for children by depicting a situation where a baby is sticking its finger in an electric socket, as children tend to copy the actions.

## Response

The Advertiser submitted that:

- It is confident that its products are marketed in a truthful, safe and sensitive manner, considering the intended audience, and that all its marketing goes through strict approval processes, involving senior management and executives, to ensure that it upholds the strict standards that are required by legislation and industry codes.
- The commercial is not aimed at children, but at individuals who require cover for non-medical expenses as a result of hospitalization. The premise of the commercial is that if something happens to a person, that person might need hospitalisation. This should not encourage anyone, even a child, from engaging in such activities, because of their possible negative outcome.
- The commercial contains clearly fictional, 'blob' characters, engaged in extraordinary, cartoonish scenarios: Coughing out one's lungs, swallowing a vuvuzela, bending in half (and breaking), being attacked by a lion in a park, while taking a selfie, actions which are all then followed by the characters being rushed to hospital. These events cannot be deemed as real-life events, or reality, any more than any cartoon character experiences on television.
- It does not believe that the scene with the baby character sticking their finger into a plug can be construed as falling foul of the Code as it is not encouraging the

babies to put their fingers in plugs, but rather the opposite, that if they put their fingers in the plugs, they will need to go to hospital.

- The Code further mentions that any scenes depicting children would be justifiable if they are clearly surrealistic. The fact that this is one scene of a depiction of eight cartoon scenes should further illustrate that the advertisement is showing hyperbolic situations, with bizarre characters, and not something that could happen in reality.
- Its marketing department has confirmed that the commercial was initially launched on 24 July 2019, and has been flighted across 4 channels (SABC, ETV, eNews, and Openview) and approximately 4200 times. In over a year of flighting the commercial, and with thousands of screenings, only one person has raised a concern that the scene may be harmful to children. It believes that this further demonstrates that the overwhelming majority of the public appreciates the commercial in the light-hearted nature it is intended, and find no concern with this, or any other, specific scene.
- It remains committed to ensuring that its marketing is conducted in an ethical manner that serves to inform the public about its products and services, and not induce any member of the public to suffer offence or harm. It appreciates the concerns raised by the Complainant and will bear her comments in mind in the production of any future marketing.

## Application of the Code of Advertising Practice

The following clause was considered in this matter:

- Children and safety – Clause 14.1 of Section II

## Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

### Potential Undertaking

The principal sanction of the ARB is to have advertising that breaches the Code removed from publication. Therefore, if an advertiser undertakes to remove an advertisement and to not use it again in future, that undertaking is accepted without considering the merits of the matter. However, that undertaking must be unequivocal.

The Advertiser has indicated that it appreciates the concerns raised by the Complainant and will bear her comments in mind in the production of any future marketing. It also made it clear, however, that it does not believe that there is anything in the advertisement that has the potential to harm children. The Advertiser has therefore not given the Directorate an unequivocal undertaking that it will not use the disputed part of the commercial again in future.

Given this, the Directorate will proceed to look into the merits of the matter.

### Merits

In terms of Clause 14.1 of Section II, the “General principle” in relation to children and safety is that advertisements addressed to children, or advertisements likely to influence them, should not contain any statement or visual presentation that might result in harming them mentally, morally, physically or emotionally. The Code then clarifies that the aim of the general principle is:

- *that children should not be brought under the impression that it is acceptable and safe to be in certain surroundings; and*
- *that the depiction of a particular activity or circumstances in such a way would not have the likely effect that children would attempt to emulate it with the concomitant risk of physical, moral or mental harm or that the impression is created that it is acceptable to act in a certain manner.*

The Directorate accepts that the adult viewer would view the commercial as explained by the Advertiser: as unrealistic, as showing the negative consequences of accidents, and as clearly not being intended for imitation.

However, animation is a style of, or form of, storytelling that is attractive and believable to children. Children learn from and imitate the behaviour of what they observe, including on television, be it a performance by real life characters or animated ones. The Directorate therefore concurs with the Complainant that the depiction of a child character, albeit in an animated form, performing an inherently unsafe and dangerous activity is a concern, especially as it appears that the commercial was aired during family viewing times where young children could also possibly be exposed to it. While it may be a cartoon, there is nothing surrealistic or hyperbolic about a baby sticking its finger in an electric socket. It is a depiction of a realistic action that can put a child's life at risk if emulated, and one that frequently occurs. The fact that the scene is depicted in an animated form makes it *more* interesting to small children, not less.

The Directorate therefore considers that there is a realistic concern that a small child might see the commercial and imitate the action. In matters involving the safety of children, the Directorate will also always err on the side of caution.

**Given this, the commercial is in breach of Clause 14.1 of Section II.**

## Sanction

The Advertiser is requested to remove the commercial from its current schedule and only schedule it during the watershed period. The commercial must be removed from its current scheduling within the deadlines stipulated by Clause 15.3 of the Procedural Guide. In the case of television advertising, this is immediately as deadlines permit.

The Independent Communications Authority of South Africa (ICASA), in Notice 958 of 2009 (Government Gazette No. 32381 of July 2009), states that *“watershed period means the period between 21h00 and 05h00 for free-to-air television Broadcasting service licensees and 20h00 and 05h00 for subscription television Broadcasting service licensees”*.