

COMPLAINT NUMBER	20/007
COMPLAINANT	L Twentyman
ADVERTISER	Brand Developers Ltd
ADVERTISEMENT	Brand Developers Ltd Television
DATE OF MEETING	18 February 2020
OUTCOME	Not Upheld No further action required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a television advertisement for the Does It All Drill Bit. The Board said the advertisement showed the product in its best light by demonstrating the range of materials the drill bit can be used for. The Board said the advertisement was not misleading and did not reach the threshold to portray situations which encourage or condone a disregard for safety.

Description of Advertisement

The three-minute television advertisement for the Does It All Drill Bit says: “Get the one drill bit that does it all!”. The man who demonstrates how to use the drill bit is shown putting holes in a range of materials, including ceramics, hardened steel, plastic, concrete, brick, granite and wood. In most of the shots the man is not wearing gloves, but on a couple of occasions he is, such as when drilling wood and when drilling metal.

Summary of the Complaint

The Complainant said the advertisement portrays an unsafe situation because it is unsafe to wear gloves while drilling, due to the risk of entanglement, and this practice is against standard industry practice.

Issues Raised:

- Social Responsibility
- Truthful Presentation
- Safety

Summary of the Advertiser’s Response

The Advertiser referred to the WorkSafe New Zealand website, which encourages employers whose workers are using tools “to assess risk and to provide suitable protective clothing to minimise risk to a worker’s health and safety while working.” With respect to the risk of entanglement when using a fixed hand-held grinder, the website makes no specific mention of wearing or not wearing gloves. In the examples shown in the advertisement, the gloves were worn to protect against the heat and sparks that might be produced.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

ADVERTISING STANDARDS CODE

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not misleading.

Rule 1 (e) Safety: Advertisements must not, unless justifiable on educational or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.

Rule 2 (b) Truthful Presentation: Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

Rule 2 (d) Comparative advertising: Comparative advertisements, or advertising that identifies a competing product or service, must be factual, accurate, make clear the nature of the comparison, must not denigrate competitors and must be of 'like' products or services available in the same market.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to a precedent decision, Decision 18/336, which was Upheld.

The full version of this decision can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 18/336 concerned an advertisement for the Mighty Grip phone mount which says: "The Mighty Grip phone mount has a powerful magnetic grip and a twist lock suction base. You can have your phone right where you need it without taking your eyes off the road. Apply the magnetic plate straight onto your phone or place inside your case and you're ready to go...." The advertisement showed the device mounted on the car dashboard and attached to the windscreen at an angle which appeared to be near the centre of the windscreen.

The majority of the Complaints Board said the advertisement depicted a visual presentation of a dangerous practice by having the phone mounted in the critical vision area of the windscreen. The Board said the advertisement was almost entirely instructional, demonstrating how to use the device and therefore this could encourage consumers to emulate the placement of the device and potentially impair driver vision.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the consumer takeout of the advertisement was the Does It All Drill Bit can be used to drill a wide range of materials, and it is better than other drill bits.

Is the advertisement misleading?

The Complaints Board said the advertisement was not misleading. The Board said the advertisement shows the product in its best light by demonstrating the range of materials the drill bit can be used for. The advertisement is not a scientific experiment or an instruction video about how to use the drill bit, it's simply a demonstration of what the product can do.

Does the advertisement encourage or condone dangerous, illegal or unsafe practices or portray situations which encourage or condone a disregard for safety?

The Complaints Board said the advertisement did not reach the threshold to encourage or condone dangerous, illegal or unsafe practices or portray situations which encourage or condone a disregard for safety. The Board said the advertisement shows different people using the drill bit, in different circumstances. Some of the people are wearing gloves and some aren't.

The Board said it appears the Complainant is well-informed. It is likely the average consumer wouldn't notice when gloves were being worn, but instead would focus on the drill bit and what it can do.

The Board said it is not the role of the Board to offer technical guidance about when it is and isn't appropriate to wear gloves when using a drill bit.

The Board noted there are various rules which might apply when operating a drill bit, especially in the workplace. The Board referred to the WorkSafe New Zealand guidelines, which state that individual operators need to assess the circumstances in each case, and then decide the appropriate safety precautions to follow. This includes when to wear appropriate safety clothing such as gloves.

Was the advertisement factual and accurate and did it denigrate competitors?

The Complaints Board said the advertisement was factual and accurate and did not denigrate any competitors.

The Board said the advertisement showed another drill bit being used to unsuccessfully drill into some metal. This drill bit was not named or otherwise identified. The advertisement showed the Does It All Drill Bit in its best light, by demonstrating what it can do, and how, unlike the other unnamed product, it can drill through metal.

Was the advertisement prepared and placed with a due sense of social responsibility to consumers and society?

The Complaints Board said the advertisement was prepared and placed with a due sense of social responsibility to consumers and society. This is because the advertisement is not misleading and does not encourage or condone dangerous, illegal or unsafe practices or portray situations which encourage or condone a disregard for safety.

The Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product and was not in breach of Principle 1, Rule 1(e), Principle 2, Rule 2(b) or Rule 2(d) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaint was **Not Upheld**.

No further action required.

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.

APPENDICES

1. Complaint
 2. Response from Advertiser
 3. Response from Media
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Appendix 1

COMPLAINT FROM L TWENTYMAN

I believe this advertisement portrays unsafe practices that are contradictory to current workplace health and safety standards. At multiple points throughout its duration, the infomercial for the “does it all drill bit”, showed gloved hands being used in conjunction with tools that gloves are not safe to be worn while using, due to the very high risk of entanglement. This is contradictory to standard industry ppe practices, regarding not wearing gloves when the risk of entanglement is high, risking serious injury. One instance of this, is when the presenter can be seen using a drill press, working around the rotating drill bit with gloved hands. This is inherently unsafe, as the wearing of gloves in such an instance would increase the risk of harm to the user by a greater amount than it would protect them from harm.

The other major instance of this can also be seen on the online page for this product: <https://tvshop.co.nz/products/does-it-all-drill-bits>, at the 0:57 time point. Here a person can be seen using a bench grinder, whilst putting themselves at high risk of entanglement due to the wearing of gloves. Due to the way in which they are grinding, and the proximity of their hand to the grinding wheel, the risk of injury by entanglement is high.

The other area in which this advertisement portrays unsafe practices, is with the very evident wear on the grinding wheel. At the same time as the usage of gloves near the grinding wheel, it is very clear that the grinding wheel has a very prominent concave hollow on the surface following the circumference of the wheel. The usage of a grinding wheel in this state would be opposed to the workplace health and safety requirements around grinding tools, to dispose of damaged discs and wheels.

I believe that in none of these instances, of activities that are not reflecting current workplace health and safety requirements, is it justifiable on educational or social grounds to portray these situations in a manner that is not consistent to upholding current health and safety requirements, and for that matter, standard best practices to avoid injury.

I also believe that this advertisement exploits the lack of knowledge of the general population, around the material science behind drill bits, as well as making unrealistic claims

The demonstration of grinding away 3 different drill bits, each in under 4 seconds, is exceedingly exaggerated, and without any scale to compare to. To the normal viewer, who may be less familiar with grinding drill bits, i believe there is a high chance that they will think the demonstration is perfectly valid. However, the demonstration omits any clear scale for the viewer to use to be able understand what size of drill bits were ground away in that time. This, i believe, means that a normal viewer cannot properly judge how significant that claim is.

The physical material nature of the drill bits being ground away in a few seconds, is also, i believe, another place where the advertisement is taking advantage of a lack of

understanding in the general population. Anyone that has ever ground a “normal” drill bit on a bench grinder in order to sharpen it, would know that they do not simply disappear like they are melting butter, that latter being the demonstrated behavior of the drill bits being ground away in the advertisement. The drill bits being ground away, are acting in such a manner that they do not appear to be what a consumer could normally purchase as “normal” drill bits. This makes me believe that this advertisement is likely to be misleading consumers, as the demonstration is not comparing the “does it all” product to the normal options that consumers would be more likely to have experience with. This is also reinforced due to the lack of a statement that the drill bits being ground away are of a potentially poorer quality compared to another “normal drill bit”, could cause viewers to come to the conclusion that any normal drill bit they may already have or would purchase, is of inferior quality next to the “does it all” product.

I also believe that this test of grinding away the drill bits, does not properly follow the requirements of rule 2(d) of the advertising standards code, specifically around the part relating to the selection of products to compare against. This comparison does not explicitly make it clear how the drill bits that were being ground away to compare to the “does it all ” product, were chosen. I believe that this may mean that the viewer may not be able to properly judge whether or not the products being compared against were chosen in such a way in which to favor the product being advertised.

Appendix 2

RESPONSE FROM ADVERTISER, BRAND DEVELOPERS LTD

ASA have given Z180DBT06TZ as the key number of the advertisement complained about, however from what the complainant has written and because of the timing and station given in the complaint we believe the relevant key number is the infomercial Z2830DBT10T4

In any case, the complainant appears to have two different complaints:

1. That the advertisement portrays unsafe practices that are contradictory to current workplace health and safety standards; and
2. That the on-screen drill bit comparisons are misleading and do not comply with Rule 2(d) comparative advertising.

Complaint 1

The shorter version of the advertisement is overwhelmingly about a drill bit which is used in a hand-held power drill. In this shorter version of the advertisement (which is also the online advertisement) there is a single scene in the advertisement where a small portion of a gloved hand is viewable in relation to a grinder. This occurs at 1:07 of Key Number Z180DBT06TZ and is about one second long.

The infomercial, or longer version of the advertisement, Key Number Z2830DBT10T4, has more scenes where the gloved hands are shown in proximity to a bench grinder.

The complainant refers to the workplace health and safety standards not being upheld in this advertisement because a gloved hand is used in conjunction with tools that gloves are not safe to be worn while using. The complainant is not specific in which tools they are referring to, however it would appear from the other statements they make that they are referring to the bench grinder. Worksafe is not specific about the suitable protective clothing to be worn when using a bench grinder. The nearest we could locate were guidelines regarding the handling of a fixed hand-held-grinders:

<https://worksafe.govt.nz/topic-and-industry/power-tools/fixed-hand-held-grinders/>

It can be seen that “**Hand Protection**” is listed as part of the **Personal Protective Equipment (PPE)** for a fixed hand-held grinder. With respect to the specific Hazard “Entanglement with turning wheel or disc” no specific mention of wearing or not wearing gloves is made. We acknowledge that with respect to the Hazard “Projectiles from wire breaking off brushes” gloves are mentioned as a control “GLOVES MAY be worn, but NEVER close to a turning wheel or brush.”

Other parts of the Worksafe website encourage the PCBU (persons conducting a business or undertaking) to assess risk and to provide suitable protective clothing to minimise risk to a worker’s health and safety while working.

<https://worksafe.govt.nz/topic-and-industry/personal-protective-equipment-ppe/protective-clothing/#lf-doc-57968>

Our assessment is that the heat produced from the grinding of the drill bits and the sparks that were created as a result were the greater risk in this situation and therefore required gloves to be worn.

In the advertisement snug well fitting gloves and safety glasses are worn by the demonstrator. We submit that these protective actions fall within the guidelines of the Worksafe guidelines and that no unsafe practices contradictory to current workplace health and safety standards are shown in either version of this advertisement.

Complaint 2

1. That the drill bit comparisons are misleading and do not comply with Rule 2(d) comparative advertising.

Advertising Standards Rule 2(d)

“Comparative advertisements, or advertising that identifies a competing product or service must be factual, accurate, make clear the nature of the comparison, must not denigrate competitors and must be ‘Like’ products or services available in the same market.

[...] Advertisements that do not identify a specific competitor can still be considered a comparative advertisement, e.g. if a comparison is made against all competition within an industry or with specific aspects of an unnamed competitor product or service.”

In the long and the short forms of the advertisements there are real time demonstration of four drill bits each being ground down on a grinder. In each case the declared function of each drill bit is stated; one for drilling wood, one for drilling metal and one for drilling masonry. The comparison is not against a single brand, the comparison is between single function drill bits with DOES IT ALL drill bit which drills effectively into multiple materials. The grinding test is a real time test and the results are plainly evident to the viewers. None of the drill bits being compared to DOES IT ALL drills being denigrated, they are simply being compared with DOES IT ALL drill bit which offers the ability to be able to drill all wood, metal and masonry materials. The comparative strength of the DOES IT ALL drill bit is demonstrated by the grinding down test and then the functionality of the DOES IT ALL drill bit is demonstrated further in the advertisement by showing how it can drill into each of the different materials (wood, metal and masonry) one after the other. The comparison in the advertisements is factual, accurate and makes the nature of the comparison clear, therefore we submit that the advertisement complies with Code 2(d).

Appendix 3

RESPONSE FROM COMMERCIAL APPROVALS BUREAU

Thank you for the opportunity to comment on the complaint that the above commercial for “Does-it-all Drill Bits” is not a truthful presentation of the product’s durability and that it condones an unsafe work practice, specifically, the wearing of safety gloves whilst operating rotating machinery.

Our understanding of PPE (personal protective equipment) practice is that loose clothing or gloves should not be worn when operating rotating machinery due to the risk of entanglement; however, tight form-fitting gloves may be appropriate if there are other environmental concerns, for example, sharp edges or temperature risks. We note that where you can see the demonstrator wearing gloves they appear to be tight form-fitting cut resistant gloves. In our opinion this is not an unsafe work practice.

It is difficult to find fault with the grinder comparison with “normal” drill bits. We are told clearly that the normal bits (presumably the cheapest and softest drill bits they could find) are “destroyed in 4 seconds” but that the Does-it-all Drill Bit could still be used after “10 seconds on the grinder”. We have no reason to suspect that this is a misleading representation of the durability of a Does-it-all Drill Bit or the so-called “normal bits”. The purposes of this scene is to show that that the Does-it-all Drill Bit *could still be used* after “10 seconds on the grinder” and not that it survived 2.5x longer on a grinder than “normal bits” – the reference to “destroyed in 4 seconds” is only to provide context to what “10 seconds on the grinder” means.