

COMPLAINT NUMBER	21/377
ADVERTISER	Brand Developers
ADVERTISEMENT	TEVO Heater, Television
DATE OF MEETING	10 August 2021
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a Brand Developers advertisement promoting the TEVO Heater. The Complaints Board said the advertisement did not portray an unsafe practice and showed a heater which was certified for use and legally installed, wired into the wall of the bathroom setting.

Advertisement

The Brand Developers television advertisement promotes the TEVO heater and highlights the efficiency and versatility of the heater. The advertisement compares the TEVO heater to a "regular gas heater" in terms of cost per hour to run, and also shows the heater in a range of different indoor/outdoor settings. One scene shows the heater mounted above a bath. The advertisement finishes with a special TV-only offer for the consumer.

Summary of the Complaint

The Complainant was concerned the advertisement was showing the unsafe use of a heater mounted above the bath and says the position is too close to the bath taps and a person could touch the appliance while standing in the bath. The Complainant is also concerned the heater is supplied with a plug top so could be connected to an extension lead which is also unsafe in the wrong circumstances.

Issues Raised:

- Social Responsibility
- Safety

Summary of the Advertiser's Response

The Advertiser defended the advertisement and said the advertisement does not show a plug outlet and the heater is wired into the wall.

The Advertiser said the heater shown in the bath scene is either in Zone 1 or 2 of the Australian/ New Zealand wiring rules. The Advertiser provided evidence of the TEVA heater having certified IPX4 ingress protection suitable for Zone 1 and Zone 2. The Advertiser also noted the user manual states the heater needs to be installed so that switches and other controls cannot be touched by a person in the bath.

Summary of the Media Response

The Commercial Approvals Bureau confirmed the advertisement had a 'G' general rating classification and deferred to the Advertiser for the technical details of the complaint.

Relevant ASA Codes of Practice

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

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.

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.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 18/188 which was Upheld and 21/317 which was Not Upheld.

The full versions of these decisions can be found on the ASA website:

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

Decision 18/188 concerned Brand Developers television advertisement for heater. A safety concern was raised about the advertisement demonstrating water being poured over the heater to show the product's waterproof feature. The Complaints Board upheld the complaint and said the advertisement contained a visual representation of a potentially dangerous practise. The Board said this image was not justifiable on educational grounds and was a realistic presentation with the potential to be copied

Decision 21/317 concerned a Brand Developers television advertisement for a Transforma Ladder. A safety concern was raised about the advertisement showing the ladder being used in an unsafe way. The Complaints Board did not uphold the complaint and said the purpose of the advertisement was to show the versatility of the product and was not intended as an instruction manual. The Board said the Advertiser's focus on safety was adequate for its intended audience of home users.

Complaints Board Discussion

The Chair noted that the Complaints Board's role was to consider whether there had been a breach of the Advertising Standards Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised, which in this case is:
 - Context: An infomercial style advertisement promoting television-only offers
 - Medium: Television
 - Audience: Television viewers, household shoppers
 - Product: A radiant heater

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was the TEVO heater is suitable for installation both and outside and inside, including in the bathroom. The heater can be used as a mobile device or wired into the wall as a permanent fixture.

Does the advertisement encourage or condone a disregard for safety?

The Complaints Board unanimously agreed the advertisement did not encourage or condone a disregard for safety. The Board said the advertisement showed the different environments the heater can be used in. The Complaints Board said the scene in the bathroom showed the heater wired into the wall. The Board said the substantiation provided by the Advertiser adequately supported its position that the scenario shown was compliant with the required safety protocols. The Complaints Board noted the IPX4 ingress protection certification allowed the heater to be used in the specific zones depicted in the advertisement, as set out by the Australian/New Zealand wiring rules.

The Complaints Board noted the Complainant's concern about the heater being powered in unsafe ways, however the Board said this was not shown in the advertisement before it. The Complaints Board reiterated that the Advertising Standards Authority's jurisdiction is limited to the content and placement of advertisements and compliance with the Advertising Codes of Practice.

Has the advertisement been prepared and placed with a due sense of social responsibility?

The Complaints Board said the advertisement was socially responsible, based on the scenarios in the advertisement showing how the heater could be used in the home.

The Complaints Board said the advertisement was Not Upheld, taking into account context, medium, audience and product and was not in breach of Principle 1 or Rule 1(e) 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

Tevo infra red heater. Part of the ad shows someone in a bath with the heater mounted above the bath. Heaters and appliances are basically not allowed in zone 1 which is within 2.m .25 mm above the bath taps or basically not being able to stand in the bath and touch the appliance. An electric shock would be fatal! The heater comes supplied with a plug top so could be connected to an extension lead, again very dangerous in the wrong circumstances you could check out Electrical Code of Practice no 34

Appendix 2

RESPONSE FROM ADVERTISER,

RE: TEVO Complaint 21/377 – Key Number Z120TEV02TY

To the ASA Complaints Board

We are responding to your letter of 29 July 2021.

As part of our response, we are sending a link to the advertisement, the subject of the above-referenced key number for TEVO heater.

You have received a complaint which give us to understand falls under Advertising Standards Code – Principle 1, Rule 1(e):

Safety:

“Advertisements must not, unless justifiable on education or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.”

The complainant details as provided are:

Tevo infra red [sic] heater. Part of the ad shows someone in a bath with the heater mounted above the bath. Heaters and appliances are basically not allowed in zone 1 which is within 2.m .25 mm above the bath taps or basically not being able to stand in the bath and touch the appliance. An electric shock would be fatal! The heater comes supplied with a plug top so could be connected to an extension lead, again very dangerous in the wrong circumstances you could check out Electrical Code of Practice no 34”

We understand that the complainant is very concerned about safety, particularly with respect to electrical products around water.

Our response to the concerns is as follows:

The bathroom scene in question on the advertising complaint appears to be this one:



It's obvious from the picture that there is no plug outlet visible, the heater appears to be wired in directly. There is no indication of an extension lead being used in the picture.

AS/NZS 3000:2007 Electrical installations - Known as the Australian/New Zealand wiring rules state that there are 4 zones within bath and shower areas. A copy of the relevant portions are attached to this response, Figure 6.2 of the attachments shows that:

- Zone 0 = within the bath internal volume.
- Zone 1 = internal of bath plan area extending to 2.25m high in NZ and 2.5m high in Australia.
- Zone 2 = An area extending from the internal wall of the bath to 600mm horizontally and 2.25m high.
- Zone 3 = An area extending from 600mm to 2.4m from the internal wall of the bath and 2.25m high in NZ and 2.5m high in Australia.

It could be argued that the heater shown in the bath scene in the advertisement is either in Zone 1 or Zone 2, or parts of the heater could be both Zone 1 and Zone 2.

Table 6.1 also being sent as an attachment shows that the minimum degree of ingress protection for personal baths or showers in Zone 1 and Zone 2 is IPX4.

The TIVA heater has certified ingress protection of IPX4 which means that it is suitable to be installed in Zones 1 and 2 which is where it is shown to be installed in the advertisement. It is in no way in breach of the Australian/New Zealand wiring standards, and it does not show any irresponsible or dangerous installation practices.

A snip from the heater's UL report showing that it is rated to IPX4 is also attached to this response.

Please also note that the User Manual explicitly instructs:

“If this heater is to be used in bathroom, it is to be installed so that switches and other controls cannot be touched by a person in the bath or shower.”

The Board will see that the advertiser has taken all necessary precautions for the safe use of the product and the advertisement complies with Advertising Standards Code – Principle 1, Rule 1(e).

We submit that the advertisement should be allowed to proceed without amendments.

Appendix 3

RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU

Brand Developers **Key: Z120TEV02TY** **Classification: G**

This advertisement for TEVO Heaters was approved on 10518020 with a 'G' general classification.

A complainant points to very specific guidelines for domestic electrical installation, with regards to the placement of a product within the commercial.

Given the level of detail at play, CAB will defer to the advertiser for full technical details.