

COMPLAINT NUMBER	22/217
ADVERTISER	Universal Pictures NZ
ADVERTISEMENT	The Black Phone, Digital Bus Shelter
DATE OF MEETING	23 August 2022
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold two complaints about the Universal Pictures billboard and bus shelter advertisements for *The Black Phone* film. The Complaints Board said the image of a man wearing a Halloween-type mask and a hat, without any other detail about the film it was promoting, was unlikely to cause fear or distress to most consumers.

Advertisement

The digital billboard and bus shelter posters promote the supernatural horror film *The Black Phone* starring Ethan Hawke. The poster features a close-up image of a character wearing a top hat in a grey horror mask which shows an exaggerated smile. The text says “Blumhouse and the Director of Sinister & Doctor Strange. In Cinemas Now”

Summary of the Complaint

There were two complaints about these advertisements. The Complainants were concerned the image of the frightening face was inappropriate in a community environment which could scare children and vulnerable people.

Copies of the complaints are in Appendix 1.

Issues Raised:

- Social Responsibility
- Fear and Distress

Summary of the Advertiser’s Response

The Advertiser said it exercised care with the planning and selection of the Out of Home, focusing placement that reached its intended audience group. The full rating (R16 Horror violence, domestic violence and offensive language) was displayed.

A copy of the Advertiser’s response is in Appendix 2.

Summary of the Media Response

oOh! Media confirmed the advertisement ran on the bus shelter digital screens on a rotation of 1 in 6 advertisers for 8 seconds. The sites were deemed to be ASA safe in our system and nowhere near schools or places that young persons would gather. The media provided a list of locations for the bus shelter advertisements.

A copy of the Media’s response is in Appendix 3.

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.

Rule 1(c) Decency and Offensiveness: Advertisements must not contain anything that is indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule

Rule 1(g) Fear and distress: Advertisements must not cause fear or distress without justification.

Preliminary Matter

The Complaints Board said Rule 1(c) Decency and Offensiveness, was not relevant to the advertisement before it and did not consider this Rule as part of its deliberations.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 17/330, which was Not Upheld and 19/230, which was Upheld in Part by the Complaints Board.

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

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

Decision 17/330 concerned a Roadshow advertisement promoting the movie *IT*, which appeared on the back of a bus and showed a ghostly arm holding a balloon out to a child.

The Complaints Board said the Complainant's concerns relied on pre-existing knowledge of the *IT* story line. Without this knowledge, the Board said the image shown in the advertisement did not unduly play on fear and was unlikely to cause serious or widespread offence.

Decision 19/230 concerned a Roadshow poster advertisement promoting the movie *Child's Play*, which showed a picture of a doll with one red eye. The doll is holding a knife and the blade of the knife is glistening. The text said, "Time to Play."

The Complaints Board Upheld the complaint on the grounds that the advertisement would have caused fear and distress without justification and its content and placement was not socially responsible. This was due to the combined effect of a doll which looked possessed, with a red eye carrying a large knife and the text saying it was time to play and the unrestricted medium of a poster.

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: Advertising an R16 horror film
 - Medium: Digital billboard and bus shelter posters
 - Audience: Unrestricted audience
 - Product: The “supernatural horror” film *The Black Phone*

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was a horror film called *The Black Phone* is newly released in cinemas and it features a character in a skull-like horror mask.

Is the advertisement likely to cause fear or distress without justification?

The Complaints Board agreed that although the image of a man wearing a Halloween-type mask and a hat was malevolent, it was unlikely to be frightening for most consumers, given there are many films which used horror masks or makeup. The Board said the innocuous title of the film, *The Black Phone*, and the omission of any other context around the film’s content meant the advertisement did not reach the threshold to breach Rule 1(g) of the Advertising Standards Code.

The Complaints Board acknowledged one Complainant had a unique circumstance, viewing the advertisement in the early hours of the morning, however it said this was unlikely to be the viewing experience for most consumers.

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

The Board noted the Media had ensured the placement of the bus shelter advertisements had not been in the vicinity of schools or places where young people would gather.

The Complaints Board said the billboard advertisement did not meet the threshold to breach Principle 1 of the Advertising Standards Code.

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(g) 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 with notification of the intent to appeal lodged within 14 calendar days of receipt of the written decision. The substantive appeal application must be lodged with the ASA within 21 calendar days of receipt of the written decision.

APPENDICES

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

COMPLAINT 1

I work delivering newspapers in the early morning (3am - 6am) and often drive past several of the new bus stops with digital advertising provided I believe by Adshel. These bus stops have a continual reel of ads being shown in a large format. ...I am complaining about a poster for an American horror movie called "The Black Phone" which appears to be about a creepy kidnapper who murders victims and shows a very scary mask. I consider myself a brave man, but to see this image pop out at you at 3.30am on a cold dark July night is very uncomfortable and I could imagine it would scare young children and delicate people. It nearly caused me to drive off the road and have a heart attack. I read up on the movie and it seems it is a hit, but will no doubt not do well here as its very American and in general a bad taste movie not aimed at a general audience of people, merely a few darked and twisted losers. I don't really think advertising violent and scary movies at 3am in the morning or even in a public forum like a bus stop is suitable. One of my stops involved me getting out of the car and delivering multiple papers and they change these ads every 10 or 15 seconds and the same image popped up every 2nd change for the whole 2 minutes. I think with this type of advertising and all the McDonalds and KFC ads, Adshel/Auckland Transport should be more responsible and not show distressing images. I really complain as this ad contains distressing and unsuitable images for standard advertising in a public bus stop. It is also used by young school children and given its July and sunrise is at 7.35am, some early starters maybe seeing it in the dark. I also question the need for 24 hour advertising on these stops when buses only run 5am - 11pm and we are having a power crisis.

COMPLAINT 2

The advertisement for the new movie The Black Phone on the electronic bill board on Oteha Valley Road, Auckland is completely inappropriate. The frightening face on the movie poster on a huge billboard is inappropriate in a community environment. There are multiple schools and play grounds nearby with many children being exposed to this billboard. I drove past 15/7 at 11:10am. I don't have a photo as I couldn't take one whilst driving.

Appendix 2

RESPONSE FROM ADVERTISER, UNIVERSAL PICTURES NZ

Re: Complaint: 22/217 The Black Phone

The below response is in relation to the complaints received regarding the Universal Pictures advertising for The Black Phone, specifically regarding The Black Phone Poster advertisements Principle 1: Rule 1 (c) Decency and Offensiveness and Rule 1 (g) Fear and distress.

Thank you for bringing this to our attention, we take any complaint seriously. We'd like to confirm that digital billboards were **taken down 17 July 2022** and digital adshels (bus-stops) were **taken down 24 July 2022**.

Universal Pictures adhere to the ASA Advertising Standards Code and guidelines.

Universal Pictures and MediaCom exercised care with the planning and selection of the OOH schedule, including provision of our artwork to the suppliers prior to booking. We also focused placements that reached our intended audience group.

Please also note that all advertising materials for this film prior to the film being rated displayed the CTC (Check the Classification) logo. Once the film was rated, the full rating (R16 Horror, violence, domestic violence & offensive language) was displayed.

We apologise for any distress caused and would like to reassure all parties involved that we have adhered to all required standards and the industry code of conduct in relation to the advertising materials and placements for this film.

Please let us know if you require any further substantiation.

RESPONSE FROM MEDIA – OOH MEDIA

Initial Comment

We have this campaign running for The Black Phone - Universal Pictures. Rated R.

It is part of a wider campaign by the agency who have briefed in multiple Outdoor Media Suppliers – is this the only complaint you have received from a member of the public regarding the wider campaign?

It is running on Digital screens only on Street from Monday 18th to the 24th July only. It will be rotating on a SOV of 1 in 6 advertisers and shown for 8 seconds on our network each rotation.

The sites chosen are all deemed to be ASA safe in our system and I have rechecked the mapping to ensure that is correct.

I understand some may take the creative to be scary due to the mask pictured that is why we ensured it was no where near schools or places that young persons would gather.

FURTHER COMMENT FROM OOH MEDIA

The campaign ran for one week only from Monday, 18th July until Sunday 24th July on our digital street network in Auckland, Canterbury and Waikato.

It appeared on an average of 62 screens per day across those three regions and solely digital where it would rotate on a 1 in 6 SOV.

We ensured that ASA Safe sites were only used in charting the campaign to avoid areas where Children & Young People may gather.

oOh! takes social responsibility seriously and ensure that all oOh! Media Services staff have participated in ASA training on the codes, and an internal oOh! ASA reps are appointed to keep the wider team updated on any developments or changes. Our Delivery Team assess all creative to ensure compliance with guidelines and we have a strong process in place to recommend creative changes to clients or to escalate if there is ever any indecision within the team.

Please find attached the daily site list that was used.

RESPONSE FROM MEDIA, MEDIWORKS

No response was received from MediaWorks regarding the billboard advertisement.