



Case Report

1	Case Number	0061/13
2	Advertiser	Global Shop Direct
3	Product	Mobile Phone or SMS
4	Type of Advertisement / media	TV
5	Date of Determination	27/02/2013
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The advertised product is called GripGo and is a universal mobile phone mount for use in vehicles. The TVC demonstrates unsafe use of mobile phones in vehicles and points out changes to the laws in various states, then offers a solution through the GripGo product which enables motorists to comply with local road laws.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

Man is seen driving while playing with his phone which is illegal. He looks away from the road several times for long period of times which is dangerous. Grip Go holder is in the centre of the screen at one stage which is illegal -it must be in the lower corner of the window. Person is seen touching the phone while driving which is illegal. Women are seen driving and looking away from the road to find a phone on the floor which is dangerous.

One of the deadly causes of road accidents in Queensland is now shown to be distractions while driving quite apart from failure to use seatbelts, DUY etc. In the ad a driver is happily talking on a hands free phone while vehicle is in motion, a GPS is sitting up on the dashboard partially obstructing vision, (Aren't drivers supposed to pull over to use a phone?). Also a driver is shown to reach behind while driving to recover an item dropped because he didn't have the foresight to use Gripgo.

The ad in summary makes light of the task of full concentration while in control of a vehicle. No wonder the road toll is as it is.

THE ADVERTISER'S RESPONSE

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

First complaint: To myself and wife it flies in the face of the present campaign for reducing distraction while driving. In one scene the 'GRIP GO' is placed centrally on the windscreen of the car.

Response: The whole purpose of the commercial / product is to eliminate distraction for drivers and allow them to comply with local laws. This message is clearly conveyed throughout. The Grip Go product is shown attached to various surfaces in various positions within the vehicle including on the centre front windscreen. This is a common position for many drivers to mount mobile phones and / or GPS units and when the driver is seated does not necessarily obstruct his or her view. As a specific example the laws in NSW state: A visual display unit (including a mobile phone), which is being used as a driver's aid function, such as a GPS, may only be used in a motor vehicle if it is secured in a fixed mounting. This mounting must be commercially designed and manufactured for this purpose. It must be positioned in the vehicle to not distract or obscure the driver's view.

The laws do not specifically state it cannot be positioned in a particular place on the windscreen. In addition to this there is a super that appears on screen at the 17sec point, that states: "Check Local Laws before installation". The actual product packaging also carries the same message "Check local laws for mounting position requirements" and the installation instructions are specific in stating that the product must be installed in a safe location and to check local requirements.

Complaint 2: The advertisement shows people using their mobile in the car while driving. It shows the driver driving with one hand. All of which are against the law.

Response: The TVC depicts people illegally using their mobile phones in a car at the very start as an example of what you should not do and highlighting the fact that it is dangerous and against the law. The TVC does not in any way suggest these activities are safe or legal. Further into the commercial the driver takes one hand off the wheel to answer a call on his phone which is mounted to the GripGo product. Again as an example the laws in NSW clearly state:

While a vehicle is moving or stationary (but not parked), a driver may only use a mobile phone to make or receive a call or use the audio playing function:

- If the mobile phone is secured in a fixed mounting;*

Clearly, the driver must be able to touch his or her phone to answer a call, so long as that is all he or she does they are well within the law. It is no different to adjusting volume on your radio or taking a hand off the wheel to use the indicator. The overriding message of this TVC is promoting safe and legal use of a mobile phone in cars.

Additionally we have placed a super on screen at the 47 sec mark saying "Filmed for demonstration purposes only under controlled conditions"

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concerns that the advertisement depicts people using a mobile phone whilst driving and this is contrary to prevailing community standards on safe driving.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Board noted the advertisement features depictions of people using their mobile phones and in various situations with mobile phones whilst driving before the main presenter of the advertisement explains that there is a safe way to use mobile phones and demonstrates the product whilst driving.

The Board noted that the depictions of drivers using their mobile phones whilst driving do depict driving practices which are unsafe and a minority of the Board considered that it is against prevailing community standards to depict unsafe driving even in the context of an advertisement for a product which will encourage the legal use of mobile phones whilst driving.

The majority of the Board however considered that these depictions are presented in a manner which makes it clear they are unsafe and the combination of the onscreen disclaimers and the overall context of advertising a safe solution to using a mobile phone whilst driving amounts to a depiction of material which is not contrary to prevailing community standards on health and safety.

The Board noted that in one scene the presenter of the advertisement is shown leaning out of the driver’s window whilst driving and shaking the phone and product to demonstrate the sticking power and considered that this action of leaning out of the window is illegal in some, if not all, States and Territories in Australia and is therefore contrary to prevailing community standards on health and safety.

Based on the above the Board noted that the advertisement does depict the unsafe practice of leaning out of a moving vehicle and that this depiction breaches prevailing community standards on health and safety.

The Board determined that the advertisement did breach Section 2.6 of the Code.

Finding that the advertisement breached Section 2.6 of the Code, the Board upheld the complaints.

ADVERTISER RESPONSE TO DETERMINATION

Thank you for your Notification relating to complaint reference 0061/13.

Global Shop Direct is in the process of modifying the TV commercial to remove the scene of the man leaning outside the window, thus overcoming the complaint ruling. We are working on replacement vision right now and the modified TV commercial should be on air with 7-10 days.