



## Case Report

1	Case Number	0001/15
2	Advertiser	Australian Insurance Holdings
3	Product	Insurance
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	28/01/2015
6	DETERMINATION	Dismissed

### ISSUES RAISED

2.6 - Health and Safety Unsafe behaviour

### DESCRIPTION OF THE ADVERTISEMENT

This television advert (TVC) introduces the fictional character “Captain Risky” and sees him performing a number of exaggerated and stylised daredevil / Evel Kievel style acts including for example racing a car, practicing his own form of martial arts, and jumping from a high ladder into a Plastic Backyard swimming pool.

### THE COMPLAINT

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

*Each year children and young adults suffer diving accidents related to diving into shallow water and some end up with spinal injuries. This ad concerns me deeply as young children may copy this chap and dive off something high into a kid's pool and suffer injuries.*

*Being advertised during the day time when kids watch television is unacceptable as Captain Risky jumps/dives from a dive board into a kids/baby pool. A mother of young children this concerns me as young children will try and imitate these stupid actions that Captain Risky is doing. This commercial needs to be removed as soon as possible OR showed at a later hour.*

*I believe the new ad contravenes several codes of advertising conduct, with particular concern for young teenage male viewers who are easily influenced by TV. The ad is similar to the Jackass movie which is rated R for dangerous and crude stunts.*

*This is a serious complaint and the ASB board has a duty of care to protect consumers from harm before a young person seriously injures themselves in a copycat crude stunt.*

## **THE ADVERTISER'S RESPONSE**

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

*The ad in question as identified by the Key Number BUD10006T160 and CAD Number P00TBIAA is known as Captain Risky's Ski Jump Driving. It is one of a suite of ads that will use the fictional character "Captain Risky" performing a number of exaggerated and stylised stunts (using CGI technology to achieve some of the effects) to communicate that because Budget Direct says no to bad drivers, high risk takers and risky circumstances, we are able to keep prices low for the majority of people.*

*We have carefully considered the complaints and the TVC in light of the provisions of the AANA Code of Ethics ("Code"). We note that the nature of the complaint relates to Section 2.6 of the Code (Health and Safety) generally and specifically to the concern that the advertisement in question contains imagery that is alleged to condone or encourage unsafe diving practices. The key points that, we believe, should be taken into consideration as regards this complaint are:*

*- The adverts went through an internal and external compliance approval process and were granted a PG rating by CAD and have been scheduled in accordance with the PG rating.*

*- The advert is clearly targeted at adults, who are now or may soon be in the market for insurance, and uses humour and exaggerated situations that members of the target audience would easily comprehend. No children are depicted in the advert, children are clearly not being targeted as potential insurance customers and the advert is not scheduled to air in any children's programs.*

*- It is very clear that the advert is not depicting a real world environment but an exaggerated and stylised world, for example, the Ramp in the advert is visually 85m tall. It is by definition meant to look ridiculously larger-than-life and is therefore a form of visual puffery and comedy. We note that the ASB has previously dismissed complaints regarding advertisements where the advertisement is, akin to the Budget Direct advert, clearly fantasy (see Case number 246/02).*

*- The scenarios are obviously designed to be comedic. The larger than life personality, the characters use of language ("Kick it and Rip it"), his props (the car itself with a jet engine tied with string to the roof) and his appearance all clearly point to the satire of the scenario. No reasonable person could ever suggest other than this is an over the top comedic stance.*

*- All stunts in the advert including the actual dive shown were performed by a trained professional stunt man and all possible safety measures (including the use of specific safety harnesses and employing on set stunt, explosives and Health & Safety experts) were taken to ensure the stunts were safe to perform.*

*- For the avoidance of doubt, whilst the dive itself is obviously hyperbolic the approach taken*

*to the stunt is entirely consistent with the approach taken in Advertising Standards case 0355/12 Sanofi Aventis i.e. the dive was conducted by a trained professional stuntman with all possible safety measures taken to ensure it was safe to dive. We note the manner in which the dive is portrayed is highly stylized and exaggerated and that special effects were used to create the overall impact.*

*- That despite the obvious fictional, exaggerated world in which character performs the stunts the advert includes the prominent warning “Budget Direct does not recommend attempting these stunts”.*

*- Budget Direct is not advocating for people to imitate this behaviour in fact the adverts actively discourage such behaviour both by clearly showing the stunts being unsuccessful and further on the basis that Budget Direct will not insure people like “Captain Risky”. We note that the ASB has previously dismissed complaints regarding advertisements where the advert, similar to the Budget Direct advert, does not condone or encourage unsafe behaviour (see Case Numbers 0339/11 and 0212/11).*

*In addition to the key points noted above, we are confident that our adverts meet all relevant standards enforced by the Codes as:*

*- There is no sexualisation prevalent in the adverts;*

*- There is no imagery depicting unsafe use of the product;*

*- There are no images which are unduly frightening or distressing to children;*

*- The adverts do not undermine parental authority;*

*- There is a qualifying statement appearing in the adverts, being: “Budget Direct does not recommend attempting these stunts”, is displayed conspicuously and is easily understandable by the target audience; and*

*- There is no reference, in any way, to alcohol.*

*- The ASB has indicated that the complaint raises issues in relation to section 2.6 of the Code of Ethics. It follows by the operation of section 2.4 of the Code of Ethics that the Children’s Code does not apply to the advert. For the avoidance of doubt however we do not consider that the Children’s Code applies to the advert as the Children’s Code only applies to advertisements that are “directed primarily to Children”, being persons aged 14 years or younger. For the reasons set out above, our advertisement is not directed to children at all and is predominantly broadcast outside of times that children would be watching television and thus would be unlikely to be viewed by children.*

*Conclusion.*

*For the reasons set out above, we submit that the advertisement does not breach Section 2, or any other section of the Code and we respectfully request that the complaints be dismissed.*

## **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 portrays dangerous behaviour which, if copied by children, could lead to serious injury.

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 that the advertisement features a man labelled Captain Risky undertaking various stunts which the advertiser says they would not insure him for.

The Board noted that the stunts Captain Risky undertakes include diving off a high board in to a shallow paddling pool, using a jet pack which carries him horizontally across the ground and riding a motorbike into the side of a parked bus so that he flies through the window.

The Board noted the exaggerated behaviour of Captain Risky and considered that the overall tone is humorous and fantastical. The Board noted that despite failing at each stunt he undertakes Captain Risky keeps going and is not shown to suffer any consequences or injuries. The Board noted the complainants’ concerns that children could try and copy the stunts portrayed in the advertisement. The Board noted that most of the stunts would not be able to be performed by a child as they involve vehicles or equipment not easily or readily available to a child (a jet-pack). The Board noted the scene where Captain Risky dives from a high platform in to a shallow paddling pool and considered that this stunt is presented as exaggerated and unrealistic as the man does not suffer any injury despite the high fall in to shallow water. The Board noted that Captain Risky is depicted as an ‘anti-hero’ who fails at his attempts to be daring and as a result is not able to be insured by the advertiser. Consistent with a recent determination regarding a man jumping from a tree on to a trampoline (0550/14) the Board considered that the actions of Captain Risky in the advertisement are clearly presented as events occurring as a result of his poor decision making and in the Board’s view his are unlikely to encourage copy-cat behaviour either from children or from adults.

The Board considered that the advertisement did not depict material contrary to prevailing community standards on health and safety.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaints.

