



Case Report

1	Case Number	0008/16
2	Advertiser	AICS
3	Product	Professional Service
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	10/02/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement begins with driver distraction (rear passenger leaning forward and holding a mobile phone in front of the driver) resulting in a motor vehicle collision. We then see a female television presenter explaining the Personal Injury Law consultation process and contact details.

THE COMPLAINT

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

As an insurer I much object to tv adverts which appear to condone or regard as routine such stupidity as is shown on this advert. Similarly to some recent tv adverts for AAMI insurance, I believe it is irresponsible to even try to induce humour from irresponsible driving by use of such images, and suggest that whichever body approves TV advertising content should disallow these and similar adverts.

THE ADVERTISER'S RESPONSE

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

We refer to the recent complaint listed above and respond according to Section 2 of the AANA Advertiser code of ethics as requested by the Advertising Standards Bureau. The

commercials content is for consultation on personal injury law.

Section 2 Consumer Complaints

Section 2.1

At no time does the commercial in question discriminate or vilify against race, nationality, gender, age, sexual preference, religion, disability, mental health or political belief.

Section 2.2

At no time does the commercial in question employ sexual appeal in a manner that is exploitive and degrading of any individual or group of people.

Section 2.3

The commercial in question does not have any violent content and only shows a damaged vehicle which reflects the advertiser's industry of personal injury law.

Section 2.4

The commercial in question has no sexual content.

Section 2.5

The commercial in question does not include any inappropriate language from the presenter or voiceover artist at any time.

Section 2.6

The commercial in question depicts driver distraction which is becoming a problem in society. At no time do we condone this behaviour and the commercial obviously represents this activity to be dangerous and could result in a motor vehicle collision. The images portrayed in our commercial would actually be seen as delivering a message of safety and care on Australian roads.

The commercial was rated 'G' by the governing body CAD depicting the fact that the commercial in question is suitable for general viewing. If CAD were concerned about the content it would have been rated 'PG'. At no time is this commercial booked to air during children's programming, that is: cartoons.

I wish to point out that the complainant identifies his profession as an insurer/underwriter. AICS (Accident Injury Compensation Service) represents our clients (The plaintiff) against the defendant which is primarily an insurance company. Perhaps the complainant in this case is motivated to lodge the complaint with his career being an insurer/underwriter.

The complainant has also mentioned his disregard for the use of humour as per the AAMI commercials. At no time do we reflect comedy or humour in our commercial.

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 complainant’s concern that the advertisement shows a driver crashing his car after looking at a passenger’s mobile phone which is an irresponsible scenario to use.

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 this television advertisement depicts a driver being distracted by a passenger’s mobile phone, resulting in an accident, and then a presenter explaining that if you have been in a similar situation you may be entitled to financial compensation.

The Board noted it had previously upheld an advertisement for the same advertiser in case 0045/15 where:

“The Board noted the complainant’s concern regarding the depiction of an illegal activity and the lack of clarity regarding how this activity was filmed. The Board noted that the advertisement does feature an on-screen disclaimer stating that the advertisement was filmed under controlled conditions and acknowledging that texting while driving is illegal. A minority of the Board considered that the inclusion of the disclaimer makes it clear that texting while driving is illegal and that the advertisement does not condone or encourage members of the community to text while driving.

Following considerable discussion however the majority of the Board noted the inclusion of the disclaimer but considered that regardless of the conditions in which this advertisement was filmed the overall impression is of a woman driving her vehicle whilst texting on her mobile phone and in the Board’s view this depiction normalises dangerous and illegal driving behaviour for commercial gain rather than community awareness. The Board considered that in the context of an advertisement for a commercial business rather than a community awareness message the depiction of a driver clearly performing an illegal activity is against Prevailing Community Standards on health and safety.”

In the current advertisement the Board noted that the distraction to the driver is caused by a passenger’s actions, not the driver’s, and considered that in this case, unlike the previous one, the consequences of the distraction are depicted and highlighted as negative. The Board expressed concern over the depiction of negative behaviour to promote a commercial business but considered that that the overall message of the advertisement is to highlight that there could be negative consequences if you distract a driver or drive unsafely.

The Board considered that the advertisement did not depict material contrary to Prevailing

Community Standards.

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 complaint.