



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0020-20
2. Advertiser :	Uniden Australia
3. Product :	Telecommunications
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	22-Jan-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

The television advertisement features a voice over stating, "Uniden's latest rugged two way UHF radios are built tough enough to handle our extreme Australian conditions. Uniden is paving the way in UHF radio communications. For more information go to UNIDEN.com.au"

The television advertisement features two four wheel drives driving on a desert road, then crossing a river. One of the drivers is shown holding the product whilst driving, speaking into it. A man is shown using the product whilst standing outside, and clipping it onto his pocket, his jumper and holding it under water.

THE COMPLAINT

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

The add depicts illegal activity. Using a handheld communication device while driving a motor vehicle.



THE ADVERTISER'S RESPONSE

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

Please find our response below in regard to the complaint that our advertisement depicts illegal activity. Using a handheld communication device while driving a motor vehicle.

Unlike Mobile Phones there is no legislation that prevents the use of CB radio or any other 2-way radio whilst driving. (See references below).

However, there is legislation covering the proper control of a vehicle. So a driver could face prosecution while using the radio if it's use caused a distraction or affected the standard of driving. The more serious offence of careless or dangerous driving, causing death by careless or dangerous driving are also available to prosecutors if the distraction can be shown.

Use of a CB radio or any other 2-way radio while driving is not illegal as long as a user maintains proper control of the vehicle.

With regards to the video in the television commercial, the driver, whilst using the CB radio, appears attentive of his surroundings and has complete control of the vehicle.

ACT: mobile phone includes any other wireless hand-held device designed or capable of being used for telecommunication other than a CB radio or any other 2-way radio. [Road Transport (Safety and Traffic Management) Regulation 2000, section 30B, subsection 3].

NSW: mobile phone does not include a CB radio or any other two-way radio. [Road Rules 2014, Rule 300, paragraph 4].

VIC: mobile phone does not include a CB radio or any other two way radio [Road Safety Road Rules 2009, Rule 300, paragraph 4].

QLD: mobile phone does not include a CB radio or any other two-way radio. [Transport Operations (Road Use Management-Road Rules) Regulation 2009, section 300, subsection 2].

SA: mobile phone does not include a CB radio or any other two way radio [Australian Road Rules 2014, Rule 300, paragraph 4].

WA: mobile phone does not include a CB radio or any other two way radio [Road Traffic Code 2000, Regulation 265, paragraph 1].



TAS: mobile phone does not include a CB radio or any other two way radio [Road Rules 2009, Rule 300, paragraph 4].

NT: mobile phone does not include a CB radio or any other two way radio [Australian Road Rules 2014, Rule 300, paragraph 4].

<https://www.ntc.gov.au/laws-and-regulations/australian-road-rules>

I hope that the above information satisfies the complaint.

Thanks

THE DETERMINATION

The Ad Standards Community Panel (Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement depicts illegal activity.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel considered whether the advertisement complied with 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 Panel noted the advertiser's response that there is no legislation stating that use of CB radios is not permitted. The Panel noted that there is specific legislation relating to mobile phone use specifically.

The Panel considered that while it was not a legal requirement, advertisers should be aware that community standards can demand higher safety standards than the law in some situations. The Panel considered that driving safety is an important issue and that when depicting situations such as this advertisers should endeavour to promote best practice regarding safety in advertisements.

However, the Panel noted that the drivers depicted in the advertisement use the CB radio in a manner consistent with proper use, and are seen to maintain control of the vehicle. The Panel considered there is no suggestion that the use of the device caused a distraction or affected their driving.

The Panel considered that this particular depiction of the use of a CB radio used in the proper manner was not a depiction which most members of the community would consider to be contrary to Prevailing Community Standards on safety.



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

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.