



## Case Report

1	Case Number	0045/15
2	Advertiser	AICS
3	Product	Finance/Investment
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	11/03/2015
6	DETERMINATION	Upheld - Modified or Discontinued

### ISSUES RAISED

2.6 - Health and Safety Unsafe behaviour

### DESCRIPTION OF THE ADVERTISEMENT

A female presenter asks if your life has been turned upside down because of someone else's negligence and we see a woman texting whilst driving her car over the Sydney Harbour Bridge. An on screen disclaimer says, "Texting while driving is dangerous and illegal. This was filmed under controlled conditions." The presenter then goes on to say that AICS have a team of expert solicitors who can determine if you are entitled to any compensation as a result of an accident.

### THE COMPLAINT

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

*I object to this advertisement on the grounds that it clearly demonstrates a woman travelling on the Sydney harbour bridge using her mobile phone. I understand this is the message of the advertisement; however there is no evidence that this media has been produced in a safe enclosed environment but rather simply filmed whilst actually travelling on the harbour bridge. Under NSW legislation it is an offence to use a mobile phone whilst driving, and this ad clearly shows the female driver doing so, because there is no evidence of a controlled environment used for filming. Therefore this advertisement is actual footage of an illegal event. I believe this commercial was produced in an unsafe manner, and demonstrates an actual event that has occurred in an illegal manner, and should not be played on television.*

## **THE ADVERTISER'S RESPONSE**

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

*We purposely included the disclaimer in respect of the perilous social issue of people texting while driving and to ensure people are aware of driver distraction offences being of a dangerous nature.*

## **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 depicts a woman driving whilst texting and it is not made clear that this was filmed under controlled conditions.

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 woman texting whilst driving.

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.

The Board considered that the advertisement did depict material contrary to prevailing community standards on safe driving.

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

Finding that the advertisement did breach Section 2.6 of the Code the Board upheld the complaint.

### **THE ADVERTISER'S RESPONSE TO DETERMINATION**

The result is disappointing, however, we will remove the ad from air as requested.