



Case Report

1	Case Number	0054/16
2	Advertiser	Seek.com.au
3	Product	Employment
4	Type of Advertisement / media	Billboard
5	Date of Determination	24/02/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The advertisement is an outdoor billboard advertisement promoting SEEK's Profile product. It uses the tag line "While you're stuck on Parramatta Road, we could be looking for your new job", in conjunction with a picture of a smart phone with a SEEK Icon indicating 2 messages, and the SEEK Logo with seek profile adjacent to it

THE COMPLAINT

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

It is illegal to use your mobile phone whilst driving unless you are using Blue Tooth / hands free to make a call. This advertisement is telling drivers of cars that pass underneath that while you are on the M4 you could be searching for a new job using Seek's mobile app. To undertake this action would require more than just using blue tooth connection, you need to be typing in search criteria etc. whilst driving??? It may be aimed at passengers in the vehicle but it does not state this. Everyday whilst driving to work I see a huge number of drivers scrolling, texting etc. on their phones. I was shocked to see such an advertisement encouraging the use of a mobile phone while driving. This is encouraging this dangerous practice and should not be allowed to advertise in such a way.

THE ADVERTISER'S RESPONSE

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

Turning to each section of the AANA Code of Ethics we comment as follows:

2.1 – N/A no person is depicted in the advertisement.

2.2 – N/A the advertisement does not employ sexual appeal in any manner.

2.3 – N/A violence is not portrayed in the advertisement.

2.4 – N/A no nudity, sex or sexuality is portrayed in the advertisement.

2.5 – N/A no strong or obscene language is employed in the advertisement, and the language used within the advertisement is wholly appropriate in the circumstances.

2.6 – We do not believe that the advertisement depicts material contrary to the prevailing community standards, as when properly understood the advertisement is not in any way a call to people to use mobile phones whilst driving, but rather highlights that when a person has a SEEK profile, SEEK's product is constantly "looking" for their new job even whilst that person may be stuck in traffic. The visual representation of the smart phone in the advertisement is simply a representation of one way in which SEEK may notify you of potential job vacancies, and cannot be reasonably interpreted as encouragement of people to use a mobile phone whilst driving.

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 encourages people to use their mobile phones whilst driving which is dangerous and contrary to Prevailing Community Standards.

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 billboard advertisement features an image of a mobile phone with two alerts waiting to be viewed and the text, "While you're stuck on the Parramatta Road, we could be looking for your new job".

The Board noted the complainants' concerns that the advertisement suggests that you should be searching for jobs on your mobile phone whilst you are stuck in traffic.

The Board noted that the text of the advertisement says, “we could be looking” and considered that the message of the advertisement is that the advertiser will do the job searching on your behalf.

A minority of the Board noted that an inclusion of a mobile phone in an advertisement is not of itself a call to action to use the phone but considered that the overall message of the advertisement is ambiguous with regards to a reference to being stuck in traffic and an image of a mobile phone with message alerts. A minority of the Board considered that the inclusion of a mobile phone with message alerts does imply that although the advertiser will do the job search for you, you can check up on the advertiser’s results on your mobile phone whilst you are stuck in traffic. A minority of the Board considered that given the level of community concern around the dangers of mobile phone usage whilst driving, an advertisement which makes reference to being stuck in traffic and features an image of a mobile phone with messages ready to be read does present material which is contrary to Prevailing Community Standards on safe driving.

Following considerable discussion however the majority of the Board noted that the advertisement does not contain a call to action to check your phone whilst driving and considered that whilst the overall message may be ambiguous in the Board’s view the text does make it clear that the advertiser is doing the job searches whilst the driver/passenger of the vehicle is stuck in traffic. The Board noted community concern around the use of mobile phones whilst driving and acknowledged that a depiction of a mobile phone with message alerts alongside a reference to being stuck in traffic is not a responsible message and expressed concern that advertisers should take care when using images of mobile phones on billboard advertisements which are visible to drivers. Overall however the Board considered the advertisement does not depict or encourage the use of a mobile phone whilst driving and that the overall impact of the advertisement does not depict material contrary to community standards on safe driving and the use of mobile phones.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on safe driving.

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.