



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0059/13</b>
<b>2</b>	<b>Advertiser</b>	<b>BCF</b>
<b>3</b>	<b>Product</b>	<b>Retail</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>27/02/2013</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.6 - Health and Safety within prevailing Community Standards

### DESCRIPTION OF THE ADVERTISEMENT

The advertisement depicts scenes two men on a boat discussing ice, heading out to sea and then fishing. There are also scenes which show various product shots of fishing reels and camping equipment.

### THE COMPLAINT

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

*I have never complained it may sound picky but on this ad they have three or four different boats the men are fishing on them and none wear life jackets, on any of the boats.*

*The only reason I noticed this was because the ad before was from the boating industry telling all people to wear life jackets and that a life jacket never ruined a great day on a boat or fishing or words to that effect.*

*Then in the next ad break BCF we laughed because every guy on all the different boats in the water none were wearing life jackets.*

*Sorry to annoy you and I don't even fish or go camping.*

### THE ADVERTISER'S RESPONSE

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

*In regard to advertising complaint reference 0059/13 BCF Australia expresses the wish to respond to the complaint raised under Section 2 of the AANA Advertiser Code of Ethics for review by the Advertising Standards Board.*

*The complainant refers to the notion that the boating industry encourages the use of life jackets. BCF certainly support this notion though in the case of the advertisement depicted, the situation does not require a life jacket (PFD). The men are in calm, enclosed waters and are very close to shore. In all states and territories of Australia it is legal to go boating in the manner depicted and not wear a life jacket. At time of filming, BCF researched the relevant state legislation to ensure that it was compliant in regard to all matters of boating safety. Specifically, the advertisement was filmed at Tallebudgera Creek in QLD where it is not a requirement for adults to wear a lifejacket in the situation depicted. To compare to other state legislation, Victoria for example has arguably lead the way in regard to the regulation and rigor of PFD usage. In the state of Victoria, the regulations state that a person must wear a suitable PFD when in a vessel under 4.8m in length that is operating in an open area of water, whilst underway or in a heightened situation of risk. This situation is clearly not the case as the body of water is enclosed, at anchor and in extremely calm conditions. BCF Australia regrets any offence taken by the complainant pertaining to this advertisement however suggests that the advertisement is inline within the AANA code of ethics as it is expected that the campaign is inline with community and legislative standards.*

## **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 concerns that the advertisement depicts people on boats not wearing life vests and that this is against prevailing community standards regarding health and safety.

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 the advertisement features three boat scenes and that in two of these scenes the men are not wearing life vests and in the third it is impossible to tell what they are wearing as the boat is filmed from a distance.

The Board noted the Advertiser’s response that they followed relevant Queensland State legislation whilst filming the advertisement but noted that there are not consistent standards in Australia on this issue for example, Victorian Maritime Regulations state that you may be required to wear a personal flotation device when in an open area of a recreational vessel when the vessel is under way.

The Board noted that in the first boat scene the men appear to be close to shore, stationary and in calm waters and that in these conditions a life vest does not need to be worn. The

Board noted that in the second scene the boat is shown from a distance and it is not possible to tell if the men are or are not wearing life vests. The Board noted that in the third and final boating scene the men are shown out at sea and that the definition of 'under way' provided by the Victorian Maritime Regulations is "...not at anchor...drifting" and considered that in this scene it is not possible to tell whether the boat is at anchor and that given that the waters are calm and the boat appears to be steady in the Board's view this brief scene is not contrary to prevailing community standards on health and safety at sea.

The Board noted that the issue of safety at sea is a very important community concern but that there is not yet a community standard regarding wearing life vests. The Board noted that the advertisement depicts only fleeting images of the men on the boat and that in each scene the conditions appear to be calm and the men do not appear to be in any danger from unsafe sailing conditions.

The Board determined that the advertisement did not depict material which would be in breach of Section 2.6 of the Code.

Further finding that the advertisement did not breach the Code on any grounds, the Board dismissed the complaint.