



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0130/13</b>
<b>2</b>	<b>Advertiser</b>	<b>Global Shop Direct</b>
<b>3</b>	<b>Product</b>	<b>Mobile Phone or SMS</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>01/05/2013</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

- 2.6 - Health and Safety Motor vehicle related
- 2.6 - Health and Safety Within prevailing Community Standards

### DESCRIPTION OF THE ADVERTISEMENT

Product advertised is a universal mobile phone mount for use in cars. The TVC shows examples of unsafe use of mobile phones while driving and then presents the benefits of the Grip Go product.

### THE COMPLAINT

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

*The ad displays mobile phone mounting positions which are illegal in Queensland. It further encourages users to use their mobile phones whilst driving and demonstrates how they can do this. The methods demonstrated contravene current Queensland laws on mobile phone use in vehicles.*

*The advert shows on a number of occasions an example of how the GripGo can be placed in the center of the windscreen just below the rear vision mirror. By law this is an offence to drive a vehicle with an item in this position. It is a danger to the driver and the occupants of that car as well as other road users and pedestrians. The law I'm referring to is Transport Operations (Road Use Management) Act 1995. 297 Driver to have proper control of a vehicle etc. (2) A driver must not drive a motor vehicle unless the driver has a clear view of the road, and traffic, ahead, behind and to each side of the driver.*

*Please assist in doing your part to help keep to reduce the road toll.*

## **THE ADVERTISER'S RESPONSE**

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

*The complaint relates to the placement of the Grip Go product on the windsreen. As per previous response to similar complaint, laws vary in each state, hence we have placed a super on screen at 18 sec stating "Check Local Laws before installation". This is replicated in detail on the product packaging and also the user instructions that come with the product. As per NSW laws, it states the car mount must be positioned where it does not obscure the driver's view. It does not specifically state forbidden parts of the windscreen*

## **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 an object placed on the windscreen of a moving vehicle and this is contrary to prevailing community standards on safe driving.

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 depictions of people using their mobile phones and in various situations with mobile phones whilst driving before the main presenter of the advertisement explains that there is a safe way to use mobile phones and demonstrates the product whilst driving. The Board noted it recently upheld a version of this advertisement (0061/16) and that this is the modified version.

Consistent with its previous determination in case 0061/13, the Board noted that "the depictions of drivers using their mobile phones whilst driving do depict driving practices which are unsafe and a minority of the Board considered that it is against prevailing community standards to depict unsafe driving even in the context of an advertisement for a product which will encourages the legal use of mobile phones whilst driving.

The majority of the Board however considered that these depictions are presented in a manner which makes it clear they are unsafe and the combination of the onscreen disclaimers and the overall context of advertising a safe solution to using a mobile phone whilst driving amounts to a depiction of material which is not contrary to prevailing community standards on health and safety."

The Board noted that the advertisement depicts scenes showing the product mounted on the

windscreen of a moving vehicle and considered that this practice is common for the mounting of satellite navigation products and is not in breach of community standards on safe driving practices.

Based on the above the Board considered that the advertisement does not breach prevailing community standards on health and safety.

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.