



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0134/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Challenger Limited</b>
<b>3</b>	<b>Product</b>	<b>Insurance</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>11/04/2012</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

A man is fishing on rocks in shallow waters. Throughout the scene, he speaks of the volatility of the global financial crisis; and contemplates the longevity of his retirement savings and the likelihood that it will last until he's 75.

### THE COMPLAINT

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

*On average nearly one rock fisherman a week is swept off rocks and drowns. On this advertisement the fisherman is not wearing a high visibility shirt. He is also not wearing a personal floatation AL device. Also has his back to the surf when talking. There also seems to be a lack of crampons on his feet. And even though there is a film crew he seems to be alone. Just feel a better job could of been done in setting a good example of safety to other rock fishermen.*

### THE ADVERTISER'S RESPONSE

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

*This advertisement is part of a series of television commercials that feature retired Australian 'characters' describing how the global financial crisis affected their lives.*

*The goal of these advertisements is to highlight the impact of share market volatility on Australian retirees and present Challenger annuities as a solution for achieving safe, reliable income in retirement. The fact that this advertisement depicts a 65 year old retired male partaking in rock fishing is incidental to the financial subject matter of the advertisement. While the fact that the commercial is not advertising a product or service associated with fishing is not determinative of whether it meets relevant community standards, its subject matter remains highly relevant in determining who is likely to be influenced by the ad. The advertisement is targeted in terms of narrative and media planning to 55-64 year old, pre-retiree financial decision makers. It clearly has no appeal to children nor is it being shown in time slots where it is likely to be viewed by children.*

*As for whether any rock fisherman would be influenced by the activities of the character in the commercial, we would note that at all times he is actually standing approximately 10 metres from the ocean and if he fell or stumbled would not even be immersed in water. Even the breaking water remains very shallow for quite a distance such that to be at risk of drowning in this location he would need to intentionally walk out into the ocean.*

*In relation to whether community standards require rock fisherman to wear crampons, high visibility apparel and personal floatation devices we note that there is currently no law in place that requires safety apparel of any kind to be worn and query whether it's the role of television advertisers to set a standard that is much higher than that deemed adequate by the legislature and elected representatives of the community.*

*Finally, the risks associated with rock-fishing are grossly overstated in the complaint and the figures cited therein are contradicted by independent, verified facts. According to the 2011 National Coastal Safety Report, in New South Wales there were 22 coastal drowning deaths in 2010-11, with only 4 of those attributed to rock fishing activities. The rock fishing drowning rate in NSW is 0.06 which is 70% below the seven year average rate of 0.20. In addition, the report shows that 13.1% of coastal drowning deaths are attributed to rock/cliff locations compared to a massive 47.5% at beaches.*

## **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 portrays a man rock fishing in a manner which is dangerous.

The Board reviewed the advertisement and noted the advertiser's response.

The Board considered whether the advertisement was in breach of 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 complainant's concerns that the man in the advertisement is rock fishing and is not wearing a high visibility vest or crampons and that he turns his back on the sea in order to address the camera.

The Board noted that whilst there are general guidelines regarding the practice of rock fishing ([http://www.lovefishing.com.au/blog.php?user=LoveFishing&blogentry\\_id=194](http://www.lovefishing.com.au/blog.php?user=LoveFishing&blogentry_id=194)) these guidelines are not legislation.

The Board noted that in this advertisement the man is standing away from the water's edge and that there is not a strong swell in the surf. The Board considered it unfortunate that the man is depicted on the rocks in a manner that is not consistent with accepted good practice but considered that in the circumstances depicted in this advertisement the man was not depicted in a manner that would breach community standards on safety.

Based on the above, the Board determined that the advertisement did not depict material contrary to prevailing community standards on health and safety and 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.