



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0151-21
2. Advertiser :	Tourism NT
3. Product :	Tourist Attractions
4. Type of Advertisement/Media :	Internet
5. Date of Determination	16-Jun-2021
6. DETERMINATION :	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This internet advertisement features an image of a woman leaning out the passenger side window of a vehicle looking backwards. The vehicle is on a road in the outback. The text accompanying the image states, "Travel off-the-beaten-track Sponsored by Tourism NT".

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

It is an offence in all Australian jurisdictions

<https://www.criminaldefencelawyers.com.au/blog/the-law-on-driving-with-your-arm-outside-of-the-car-window-in-nsw/>

(QUOTE): NRMA Road Safety Expert Says "No Reason" to have Arm Outside of Vehicles

According to NRMA Road Safety Expert Dimitra Vlahomitros, who recently spoke to Yahoo News, when it comes to road safety, there is "simply no reason" for drivers or passengers to have their arms outside of vehicles, windows or doors while in motion. "Drivers and passengers need to apply common sense – it's not only illegal but downright dangerous, and that's because you could risk losing a limb," she said.



“We know that kids mimic our behaviour, which is why it’s so important to make sure we’re modelling the right road safety behaviours.”

THE ADVERTISER’S RESPONSE

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

The image used in the native banner advertisement has not contravened the code of ethics with relation to Health and Safety as the advertisement features a stationary car, in a staged area of a National Park (Uluru-Kata-Tjuta) under closed conditions. The car is obviously stationary and the situation staged due to the photographers position being on the outside of and at the rear of the car at the time the photo was taken. To have broken the law it states that no person should be “Driving or travelling with any part of body protruding”. As clearly indicated by the car and photographers position the passenger of the car is in a stationary vehicle so not "Driving or Travelling" therefore even if the scene was not in a closed and staged environment, which it is, no law would have been broken under normal road conditions in any case.

THE DETERMINATION

The Ad Standards Community Panel (Panel) considered whether the advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant’s concern that the advertisement is depicting behaviour which is against the law and unsafe.

The Panel viewed the advertisement and noted the advertiser’s response.

Section 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel noted the Practice note for the Code which states: *“Images of unsafe driving, bike riding without helmets or not wearing a seatbelt while driving a motor vehicle are likely to be contrary to prevailing community standards relating to health and safety irrespective of whether such depictions are for the product/service being advertised or are incidental to the product”.*

The of the Panel considered that although the vehicle may have been stationary when the photograph was taken, the impression to most viewers of the advertisement is that the vehicle is moving.

The Panel noted the Australian Road Rules which state:

Rule 268 (3)



A person must not travel in or on a motor vehicle with any part of the person;s body outside a window or door of the vehicle, unless the person is the driver of the vehicle and is giving a hand signal:

(a) for changing direction to the right in accordance with rule 50; or

(b) for stopping or slowing in accordance with rule 55.

Offence provision.

The majority of the Panel considered that most viewers of the advertisement would see a woman with her upper body outside a moving vehicle, and that such a depiction is against both the law and community standards.

Section 2.6 conclusion

The Panel considered that the advertisement did contain material contrary to Prevailing Community Standards on health and safety and determined that it did breach Section 2.6 of the Code.

Conclusion

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

THE ADVERTISER'S RESPONSE TO DETERMINATION

Please accept this confirmation that we have discontinued the advertisement outlined in the complaint ref: 0151-21