



**Ad Standards** Community Panel  
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Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	<b>Case Number</b>	<b>0164/18</b>
2	<b>Advertiser</b>	<b>Bestway</b>
3	<b>Product</b>	<b>House Goods Services</b>
4	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
5	<b>Date of Determination</b>	<b>11/04/2018</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

This television commercial depicts a couple in a portable spa, the neighbour looks over the fence at the couple, and their children who have joined them. The neighbour is then seen watching her own husband inflate their own portable spa.

## THE COMPLAINT

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

*There is not any form of pool fencing surrounding the portable spa.*

*This is extremely neglectful advertising.*

*There is a huge ongoing problem with people drowning, especially children in home pools and spas.*

## THE ADVERTISER'S RESPONSE

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



*We followed all television guidelines as required by Australian Advertising Laws (inclusion of disclaimer on the TVC that local council pool regulations apply) including CAD approval. We have been running various inflatable pool commercials for this client over the past 5 years and not received a complaint prior to this.*

## **THE DETERMINATION**

The Ad Standards Community Panel (“Panel”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Panel noted the complainant’s concern that the advertisement depicted a pool with no fencing children which is dangerous, especially in the context of child drownings in Australia

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

The Panel 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 Panel noted the television advertisement depicts a couple in a portable spa. Advertisement then shows a neighbour looking over the fence at the couple and their children who have joined them in their portable spa.

The Panel noted the complainant’s concern that the advertisement depicted a portable spa without any pool fencing surrounding it and that this behaviour is unsafe and contrary to community standards on health and safety regarding pool safety.

The Panel considered the advertiser’s response that it had included a clear disclaimer on the TVC relating to council pool regulation and in doing so had followed all television guidelines. The Panel noted that the disclaimer on the bottom of the advertisement reads “Adult supervision required. Pool fencing laws apply, please check with your local council”. The Panel noted the disclaimer stays on screen for 20 seconds, in the 30 second advertisement

The Panel noted that the product being advertised is inflatable and portable. The Panel noted that the product is sold with a lid/cover, which in some jurisdictions is acceptable instead of pool fencing. Due to the diversity of legislation around inflatable spas/pools, the Panel considered that the advertisement contained sufficiently clear warnings about the need to check with local laws in regards to the use and application of the product and appropriate fencing requirements. The Panel considered the the images presenting the portable spa on the back deck of the house was not encouraging unsafe behaviour or a absence of supervision.



In the Panel's view the advertisement incorporating the clear disclaimer about the requirement to check local pool fencing laws did not depict material contrary to Prevailing Community Standards on health and safety regarding pool safety. The Panel 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 Panel dismissed the complaint.