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Advertising Standards Bureau Limited  
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# Case Report

1	Case Number	0169/18
2	Advertiser	Nissan Motor Co (Aust) Pty Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Pay
5	Date of Determination	11/04/2018
6	DETERMINATION	Dismissed

## ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows a father and daughter driving through the city in their Nissan X-TRAIL. The video shows a lot of pedestrians wearing headphones. The ad then cuts to a young woman in headphones stepping out into the street, in front of the vehicle. The car starts beeping, and then breaks automatically. The woman is shown waving apologetically.

## THE COMPLAINT

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

*The advert depicts 'cool' teenagers walking the streets with headphones on all totally unaware what's around them.*

*The climax of the ad is a young girl with headphones crossing the road nearly being run over.*

*The aim is to show the cars ability to stop suddenly.*

*However the EXTREMELY worrying message is that it is 'cool' to walk around and even cross the road in a world of your own with headphones on.*

*How can we get this worrying ad removed?*



## THE ADVERTISER'S RESPONSE

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

*Your letter details a complaint with reference number 0169/18 (the complaint) in relation to a 30 second advertisement by Nissan Motor Co. (Australia) Pty. Ltd. (Nissan) featuring a Nissan X-TRAIL (the advertisement).*

*In your letter you state that the complaint raises issues under section 2.6 of the AANA Code of Ethics (the AANA Code).*

### 1. Description of the advertisement

*The advertisement shows a father and daughter driving through the city in their Nissan X-TRAIL. The daughter is 'in her own world' listening to music on her head phones. The camera pans out to show the wider public wearing head phones and walking in unison to the beat of the music, inattentive to the world around them. The ad then cuts to a young woman, who is absorbed in the music, crossing the road abruptly without looking. The X-TRAIL vehicle comes to an immediate stop in front of her, thanks to the car's Intelligent Emergency Braking with Pedestrian Detection feature. A voice over says "The modern world can be... challenging. So we designed a car that can help stop, for you." This feature has been used to keep both the pedestrian and the father and daughter in the car safe from harm. The pedestrian pulls her head phones away from her ears and waives apologetically at the father. His expression then changes from a look of worry to a smile. This moment causes the daughter to put down her head phones and reconnect to her father as the vehicle is shown driving off out of the city.*

### 2. The complaint

*The complainant alleges that:*

*'The advert depicts 'cool' teenagers walking the streets with headphones on all totally unaware what's around them. The climax of the ad is a young girl with headphones crossing the road nearly being run over. The aim is to show the car's ability to stop suddenly. However, the EXTREMELY worrying message is that it is 'cool' to walk around and even cross the road in a world of your own with headphones on'.*

### 3. Nissan's response to the complaint

*Your letter requires Nissan to address the advertisement's compliance with section 2 of the AANA Code. Nissan does not believe that any issues arise under sections 2.1 - 2.5 of the AANA Code. Nissan believes that only section 2.6 is relevant to the*



*complaint.*

*Section 2.6 of the AANA Code provides: "2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety."*

*Nissan takes great care and effort to ensure that our advertisements do not encourage any form of unsafe or reckless activity, or depict scenes or behaviour contrary to prevailing community standards in relation to health and safety.*

*This advertisement simply acknowledges an unfortunate reality that it is now commonplace for pedestrians to wear head phones as they make their way around the city, often listening to loud music which may distract them and drown out the sound of approaching vehicles or other dangers on the road. Nissan strongly rejects any characterisation of the ad as encouraging this behaviour or depicting it as 'cool'. On the contrary:*

- The voice over specifically calls out 'the modern world' (referencing the increased use of smartphones and head phones by pedestrians) as being 'challenging' for drivers.*
- The act of the pedestrian walking onto the road without looking is recognised as a potentially dangerous act, with both the pedestrian and driver initially registering worried looks on their faces and the pedestrian then acknowledging her error by conveying an apology for stepping out in front of the vehicle.*
- The advertisement features a diverse cross-section of the public, including men and women of all ages and demographics, engaging in the same behaviour of walking in unison to the music flowing from their head phones, seemingly disconnected from the world around them. The advertisement does not just focus on teenagers and does not imply that the behaviour is only that of 'cool' people.*
- The story line of the advertisement offers a gentle critique of the modern practice of 'tuning out from the real world', with the father looking disappointed when his daughter initially puts on her head phones and then both father and daughter smiling at the end of the advertisement when the daughter removes her head phones and reconnects to her father and the world around them.*

*Rather than depicting material contrary to prevailing community standards on health and safety, Nissan submits that the advertisement in fact depicts a positive safety message by demonstrating the benefits of Intelligent Emergency Braking with Pedestrian Detection technology and encouraging consumers to invest in vehicles with this potentially life-saving feature. As shown in the advertisement, when this technology detects danger of collision with a pedestrian (or other object) ahead, it*



*warns the driver with audible and visual warnings, urging the driver to take action to avoid the danger. If the driver fails to slow down, it will apply an emergency brake and decelerate to help avoid a collision, or reduce the damage caused if a collision is unavoidable.*

*Nissan is strongly committed to vehicle safety and has publicly declared its goal to achieve virtually zero fatalities and serious injuries in accidents involving its vehicles. Nissan views the safety technology featured in this advertisement as a key platform in the pursuit of its ultimate vision of achieving virtually zero fatalities.*

#### 4. Summary

*For the reasons above, Nissan does not believe that the advertisement breaches the AANA Code and accordingly requests that the complaint be dismissed.*

*We look forward to receiving the results of the Board's determination.*

### **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 material contrary to messages about road safety, specifically regarding crossing roads.

The Panel viewed 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 Pay TV advertisement depicts a young woman in headphones stepping out into the street, in front of the Nissan X-Trail.

The Panel noted the complainant's concern that the advertisement depicts 'cool' teenagers walking the streets with headphones on all totally unaware what's around them.

The Panel acknowledged that road safety is an issue of significant community concern and that it is important that advertisements don't portray material which is contrary to road safety messages. The Panel noted that it is an offence in most states to walk without reasonable regard for other road users.

The Panel noted that the depiction of something which is against recommended



behaviour or might be in contravention of a regulation is not of itself a depiction of material which is against prevailing community standards on health and safety. The Panel must consider the impact of the depiction in the overall context of the advertisement.

The Panel noted the advertiser's response that the advertisement shows a commonplace scenario that pedestrians now often wear headphones which may distract them when they are walking and drown out the sound of approaching vehicles. The Panel considered the advertiser's response that the pedestrian in the advertisement recognises their dangerous act of walking into the street without looking, as both the pedestrian and the driver have worried expressions before waving in apology and acknowledgement.

The Panel considered that the advertisement is a reflection of the real world, and highlights the risk of walking with headphones and not being aware of surroundings. The Panel noted that the advertisement is very stylised with the portrayal of various people in synchronisation.

The Panel considered the overall message is identifying the safety features of the motor vehicle and highlighting the dangers of crossing the road without due regard for your surroundings is not condoning or encouraging such behaviour.

The Panel considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety regarding road 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.

