



**ADVERTISING
STANDARDS
BUREAU**

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Case Report

1	Case Number	0174/12
2	Advertiser	EFTPOS Payments Australia Ltd
3	Product	Professional services
4	Type of Advertisement / media	TV
5	Date of Determination	23/05/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Unsafe behavior

DESCRIPTION OF THE ADVERTISEMENT

In the commercial, ordinary Australian people talk directly to camera. Their words make up a verse about being in control and in charge, about being Kings of their fate and rulers of their finances by pressing CHQ or SAV when they are next at an eftpos machine.

THE COMPLAINT

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

I object to the section of the advert (approx. 44 seconds in) showing a Forklift Operator on a moving forklift. His actions severely breach safe use of a Forklift and go against all legal safety requirements of a licensed forklift operator. This advert promotes unsafe and dangerous behaviour on powered machinery. The Operator is looking and talking at the camera whilst driving in reverse! He is not even watching where he is going and has other workers standing in the background. Operators should also never drive with the tynes raised they should be lowered to ground level. As a trained Forklift Operator I find this section of the advert promotes extremely unsafe behaviour. Whilst the Forklift Operator appears for only a few seconds his behaviour however sends a very dangerous and unsafe message.

THE ADVERTISER'S RESPONSE

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

We act on behalf of M&C Saatchi Agency Pty Limited (Agency) who at all relevant times including the present is the exclusive advertising agent for eftpos Payments Australia Ltd (“eftpos”). We produced the subject advertisement of which the complaint is being made (“Advertisement”).

The Agency’s client, eftpos, and the client have asked us to submit the following response to the subject complaint.

1. The complainant does not specify which particular section of the AANA Advertiser Code of Ethics he considers the advertisement has breached. The only sections which could, in our view, possibly be relevant are clause 2.6 or perhaps the FCAI Motor Vehicle Advertising Code.

2. The FCAI Motor Vehicle Advertising Code does not apply because this is not an advertisement for a motor vehicle and in event that code does recognise that:

“FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles.”

3. Clause 2.6 of the AANA Code provides that:

“Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.”

4. The forklift scene in the advertisement was filmed under strict supervision of a safety officer appointed by the Agency as well as an OHS representative appointed by the site owners (Melbourne Markets). The actor in question is in fact a licensed forklift operator and knew how to safely handle the forklift. See attached.

5. In relation to the comments of the complainant about driving with raised tynes/forks and driving in the vicinity of other workers we do not agree with his assessment. In fact, we respond that the shot of the forklift shows that it is well away from any other obstacles and any other staff. Our safety officer instructed the forklift driver to slightly raise the tynes/forks on the vehicle for ground clearance when driving it because the ground was uneven but at the same time the tynes/forks were not raised to any height which would be a danger to the driver or others.

6. Therefore while we appreciate the complainant’s sincere concerns about safe operation of forklifts, we do not believe this advertisement sends out a “very dangerous and unsafe message”.

7. The complainant appears to take a literal view of advertising, rather than viewing it in the context of creativity and the promotion of ideas and information.

8. In practical terms we all know from the broadest analysis of complaints over the last 10 years to the ASB that vehicles - be they cars, trucks, planes or forklifts have presented problems but the good common-sense of the public has been able to prevail. Examples in modern media and advertising are:

- TV shows like worldwide NBC TV hit show Knight Rider where the car actually drives itself;*
- Stunt filled feature films involving car chases such as Mission Impossible 1, 11, 111 and IV*
- There are numerous advertisements in which actors talk while driving and/or do other things which are not safe– if you need examples please advise.*

9. The very existence of the Advertising Standards Board (“ASB”) (and its global equivalents) acknowledges the legitimacy of “creative latitude” involving stunts, fantasy,

humour, drama etc. Indeed the whole advertising system and that industry's Awards nights applaud the use of that creative latitude.

10. The eftpos advertisement is a series of short scenes featuring various every day people with a king or royal motif which encourages viewers (in a humorous way) to live within their means rather than using credit. The advertisement is conveying a positive message: "Let's take control of our money" (not merely one which is commercially beneficial to the advertiser).

11. The humour in the advertisement is also sustained by the royal music which is used. Each scene is more farfetched than the last, as the music builds.

12. It is an advertisement for a payment system, not a forklift or for goods and services accessed with a forklift, or forklift services.. Some leeway needs to be allowed for the fact that it is a commercial television advertisement and therefore the actors employed will usually need to face the camera to be heard clearly and effectively.

13. After viewing the advertisement we submit the reasonable viewer would not feel compelled to drive forklifts backwards while looking at the camera any more than one would feel the need to copy any of the other comical scenes presented in the advertisement.

14. In addition the advertisement does not dwell on the way in which forklift is being driven, nor does it seek to glorify any perceived unsafe practice (it is not like for example a sports car advertisement seeking to emphasise the sheer speed of the vehicle).

We ask that you consider the above comments and advise us if any further submissions are necessary.

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 depicts a forklift driving practice that would be unsafe.

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 that the advertisement shows everyday Australian's talking directly to camera about being in control and in charge of their own finances and about using Eftpos. Their words make up a verse about being in control and in charge, about being "Kings of their fate" and "rulers of their finances" by pressing CHQ or SAV when they are next at an eftpos machine.

The Board noted the advertiser's response that the advertisement was filmed under strict supervision of a safety officer and an OHS representative appointed by the site owners. The

Board noted that the advertiser said that the actor is a licensed forklift operator and knew how to safely handle the forklift.

The Board noted that the advertisement is for a payment system that encourages people to live within their means rather than utilizing credit or 'borrowed' money. The Board considered that the humorous way in which the advertisement is presented draws the attention of the viewer to the bold statements being made and creates a feeling of nonsense and empowerment.

The Board considered that the scene with a man reversing the forklift is fleeting and is not the focus of the campaign and also considered the forklift was far removed from any other structures or people and so was unlikely to harm anyone or anything. The Board considered that there is a genuine community concern regarding safety issues in the workplace but considered that most adults would identify with the irreverent aspect of the advertisement.

The Board considered that in this instance the advertisement is clearly tongue in cheek and do not condone the idea that workers should conduct tasks in an unsafe manner.

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.