



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0183-21
2. Advertiser :	DoorDash
3. Product :	Professional Service
4. Type of Advertisement/Media :	Internet - Social - Other
5. Date of Determination	23-Jun-2021
6. DETERMINATION :	Upheld – Not Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This advertisement which appeared on Snapchat depicts a phone sitting on the ledge of a vehicle display screen with no apparent method of attachment.

THE COMPLAINT

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

The advertisement promotes using a mobile phone without a phone mount while driving

THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response.

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 promotes using a phone while not in a phone mount.



The Panel viewed the advertisement and noted the advertiser did not provide a 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 to Section 2.6 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 Panel noted that it was not clear how the phone in the advertisement was staying in position while the car was being driven, however it appeared to be balanced on the indent of a screen in the dashboard.

The Panel noted that the car featured in the advertisement was a left-hand-drive vehicle and it was likely the advertisement had not been filmed in Australia. The Panel considered that advertisements which were directed at Australians must still meet prevailing community standards of road safety in Australia, regardless of where the advertisement was filmed.

The Panel noted that laws around the use of mobile phones to aid navigation while driving differ across Australian states and territories.

The Panel noted that the driver was not seen to touch or interact with the phone while he was driving, and the phone was clearly displaying a map to aid with navigation.

For example, Regulation 300 of the NSW Road Rules includes:

“(1) The driver of a vehicle must not use a mobile phone while the vehicle is moving, or is stationary but not parked, unless—... (b) the phone is functioning as a visual display unit that is being used as a driver's aid and the phone is secured in a mounting affixed to the vehicle” [“\(http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol_reg/rr2014104/s300.html\)](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/nsw/consol_reg/rr2014104/s300.html)

And Regulation 300 of the Victoria Road Safety Road Rules includes:

“(1) The driver of a motor vehicle must not use a mobile phone while the motor vehicle is moving, or is stationary but not parked, unless the driver holds a full driver licence and...(b) the phone is being used to perform a navigational or intelligent highway vehicle system function and the body of the phone— (i) is secured in a mounting affixed to the vehicle while being so used; or



(ii) is not being held by the driver, and the use of the phone does not require the driver, at any time while using it, to press anything on the body of the phone or to otherwise manipulate any part of the body of the phone;"
(<https://content.legislation.vic.gov.au/sites/default/files/2020-11/17-41sra009%20authorised.pdf>)

The Panel considered that the phone not being secured in a mount would be against road rules in some Australian jurisdictions. The Panel considered that as the phone was not secured it could fall down while the car was being driven, causing a distraction and an unsafe situation. The Panel considered that in an advertisement attempting to recruit delivery drivers who would need to use navigation while driving, the depiction of potentially unsafe driving practices would be in breach of prevailing community standards on road safety.

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 breached Section 2.6 of the Code, the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advertiser has not provided a response to the Panel's determination. Ad Standards will continue to work with the relevant authorities regarding this issue of non-compliance.