



Ad Standards Community Panel
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Case Report

1. Case Number :	0199-20
2. Advertiser :	The Treasury
3. Product :	Community Awareness
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	24-Jun-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This television advertisement features various scenes of Australians in different workplaces and information about the Job Keeper program.

THE COMPLAINT

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

Vision of a young female employee shouldering one end of 3 long, heavy timber beams is irresponsible. It suggests this is an admirable practice, when in fact it's likely to lead to unnecessary injury. It sends the wrong message to young workers about workplace health and safety.

THE ADVERTISER'S RESPONSE

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



I refer to the complaint in your letter dated 16 June 2020 from a member of the public about a visual shot at the start the department's recently-aired JobKeeper TV advertisement.

The advertisement in question ceased airing on mainstream TV on 17 June 2020. The Culturally and Linguistically Diverse (CALD) version and relevant press, radio, social media and online content, is scheduled to finish on Saturday 4 July 2020.

While the complainant alleges a potential breach against Section 2.6: community standards on health and safety, our response relates to each section of the AANA Advertiser Code of Ethics as follows:

Section 2.1: Advertising or Marketing Communication shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

Response: The advertisement does not portray people or depict material in a way which discriminates against or vilifies a person of section of the community.

Section 2.2: Advertising or Marketing Communication shall not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people.

Response: There are no sexual references within this advertisement.

Section 2.3: Advertising or Marketing Communication shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

Response: There is no violence depicted in this advertisement.

Section 2.4: Advertising or Marketing Communication shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

Response: There is no sexuality or nudity in this advertisement.

Section 2.5: Advertising or Marketing Communication shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

Response: There is no use of strong or obscene language in this advertisement.

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

Response: Universal McCann was appointed by the Australian Government for the creative production and media placement of all communication and advertising materials relating to the global health pandemic, COVID19, under a Whole of Government arrangement. The creative was produced by McCann, a creative agency in the Universal McCann organisation, following the Australian Government's announcement to support households and businesses and to address the significant economic consequences of the Coronavirus. All campaign material met the Australian



Government Guidelines on Information and Advertising Campaigns by non-corporate Commonwealth entities.

The Treasury does not accept that the manual task outlined by the complainant would be likely to lead to unnecessary injury, or that there has been a breach of Work Health and Safety (WH&S) legislation. The Treasury also does not agree that the relevant scene sends a wrong message to young workers about WH&S. In this respect, the individuals concerned are wearing high-viz garments and do not appear to have awkward postures or to be under any obvious strain.

However, to avoid possible distraction from the central messaging of the Australian Government's JobKeeper advertising campaign, and noting the conclusion of the mainstream TV advertisement on 17 June, the Treasury agrees to remove the scene from the CALD version of the advertisement as soon as practicable following a formal decision from the Community Panel. The Treasury also agrees not to show either version of the advertisement (on mainstream or CALD TV, press, radio, social media, online) in future with the relevant scene in it.

A detailed summary of the Treasury's legal office advice is at the end of this response.

2.7.: Advertising or Marketing Communication shall be clearly distinguishable as such to the relevant audience.

Response: The advertisement is clearly targeted to eligible, Australian businesses and employees.

Finally, the Australian Government is committed to complying with the AANA Advertiser Code and all applicable laws with respect to its advertising activities. In addition, the Treasury assures the Community Panel that it is, and will continue to be, careful to ensure that future advertising does not promote conduct that may be interpreted irresponsible in nature.

Detailed summary of the Treasury's legal office advice

The primary work health and safety legislation in Australia is the Work Health and Safety Act 2011 [<https://www.legislation.gov.au/Details/C2018C00293>] which underpins the Work Health and Safety Regulations 2011 (Regulations) [<https://www.legislation.gov.au/Details/F2019C00898>]. Regulation 5 defines a hazardous manual task to mean, ...a task that requires a person to lift, lower, push, pull, carry or otherwise move, hold or restrain any person, animal or thing that involves one or more of the following:

- (a) repetitive or sustained force;*
- (b) high or sudden force;*
- (c) repetitive movement;*
- (d) sustained or awkward posture;*
- (e) exposure to vibration.*

Examples:

- 1. A task requiring a person to restrain live animals.*



2. A task requiring a person to lift or move loads that are unstable or unbalanced or are difficult to grasp or hold.
3. A task requiring a person to sort objects on a conveyor belt.

Part 4.2 of the Regulations deals with Hazardous Manual Tasks. Essentially, the issue is to do with risk identification and management rather than, relevant to this complaint, say a breach of set weight limits for the manual lifting and handling of objects. Regulation 60 sets out the relevant matters for determining appropriate control measures to which the person conducting the undertaking, in this case, the Treasury, must have regard with respect to hazardous manual tasks that may contribute to a musculoskeletal disorder, including,

- (a) postures, movements, forces and vibration relating to the hazardous manual task; and
- (b) the duration and frequency of the hazardous manual task; and
- (c) workplace environmental conditions that may affect the hazardous manual task or the worker performing it; and
- (d) the design of the work area; and
- (e) the layout of the workplace; and
- (f) the systems of work used; and
- (g) the nature, size, weight or number of persons, animals or things involved in carrying out the hazardous manual task.

These concepts are developed on the Safe Work Australia website [<https://www.safeworkaustralia.gov.au/manual-handling>] and by the Hazardous manual tasks Code of Practice (Code) [<https://www.safeworkaustralia.gov.au/system/files/documents/1905/model-cophazardous-manual-tasks.pdf>] issued by Safe Work Australia.

The Code describes an 'awkward posture' where any part of the body is in an uncomfortable or unnatural position, for example, unbalanced or asymmetrical postures and pages 21-22 of the Code provide pictorial examples of excessive twisting or tilting of the neck and back. In particular, we have examined figures 13 and 14 on page 22 of the Code which demonstrate the tilting of a person's back and neck of up to 20 degrees. Although the right shoulder of the female worker bearing the load of planks appears slightly higher than the left shoulder, it does not appear that the tilt of her neck and back is more than 20 degrees, nor does she appear to be in any sort of discomfort or strain. For these reasons, we do not consider that there has been any breach of WH&S legislation.

THE DETERMINATION

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

The Panel noted the complainant's concern that the advertisement depicts unsafe behaviour.



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

The Panel considered whether the advertisement complied with 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 advertiser response detailing recommendations by Safe Work Australia. The Panel noted that the man and woman are wearing workboots and high visibility clothing, as is common on construction sites.

The Panel noted that the woman in the advertisement is holding one end of three timber beams, with a man holding the other end of the beams. The Panel noted that there is no indication that the beams are unreasonably heavy and that neither the man nor woman appears to be struggling to move them.

The Panel noted that there is no indication of the distance the timber is to be carried by the workers.

The Panel considered that in the context of a construction work site, most members of the community would not consider the manner in which the man and woman are carrying the timber beams to be unsafe.

The Panel considered that the advertisement did not contain material which would be contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.