



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0301/17</b>
<b>2</b>	<b>Advertiser</b>	<b>iSelect Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Insurance</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>12/07/2017</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- 2.3 - Violence Causes alarm and distress
- 2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens in an elevator where five work colleagues of various ages are chatting. The doors open and a woman squeezes in. The colleagues continue their conversation about the Lifetime Health Cover Loading (LHC). Not hearing the start of the conversation, the new woman immediately assumes LHC is some kind of disease: one man is coughing, another is scratching a red rash on his neck, and a woman sneezes.

The new woman looks uncomfortable, and frantically pushes the elevator button in the hope she'll get to her floor more quickly. Finally, the elevator stops with a 'ping.' We cut to the outside of the lift as the doors open and we see the woman burst out, trip, and run head first into the wall.

We cut back to the elevator where everyone stares in shock at what has happened. One of the men pulls out his phone and captures the woman getting back to her feet and walking off.

The 'New Kids on the Block' song "The Right Stuff" begins to play and the advertisement finishes with on-screen information about applying for health cover before the end of the financial year.

## THE COMPLAINT

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

*At one point a female character falls out of the elevator while wearing a dress. A male character still in the lift raises his mobile and secretly takes a photo which is very suggestive of take a photo up her skirt while she is lying on the floor. It's promoting this disgusting action that it's ok to take secret pictures of people without their consent especially women who are wearing dresses and are vulnerable. Please remove this ad.*

*I have an epileptic ex who I found after her first epileptic fit with her head smashed through the wall like that on the ad and every time I see that ad it reminds me of that moment and gives me flashbacks and major anxiety. I still have nightmares about it and it was 4 years ago. Seeing these ads is reminding me of it lots more than normal.*

## **THE ADVERTISER'S RESPONSE**

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

*We are confident that there is nothing about the advertisements that contravenes anything in relation to Section 2 of the AANA Code of Ethics, in particular relation to section 2.1 relating to discrimination or vilification, section 2.2 relating to exploitative and degrading advertising or section 2.4 relating to sex, sexuality and nudity.*

*2.1 Advertising or Marketing Communications 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.*

*2.2 Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people*

*This campaign utilises slapstick humour to depict the case of a misunderstood conversation. Janice (our hero female) mistakenly thinks that the people she shares an elevator lift with are all carrying a contagious disease called 'LHC'. Little to Janice's knowledge, they are merely talking about carrying a loading on their private health insurance.*

*To punctuate the miscommunication, Janice, thinking that she'll catch LHC, bursts head first out of the lift straight into the wall ahead. As she does this, one of the male characters does what many people do when unexpected physical situations arise, and takes out his phone and snaps a photo of Janice on the floor with the hole in the wall just above her.*

*As is shown, the character does this in full view of all the other people in the lift, and not in secret as the complainant suggests. He does this to capture the surprise accident (as is commonly done in today's society) and not to secretly and maliciously photograph up Janice's skirt as is suggested. Furthermore we are confident that the shocked and surprised reactions of all in the lift suggest that this purely light hearted and in no way sleazy or untoward.*

### *2.3 - Violence Causes alarm and distress*

*While we sympathise with the complainant and her experiences, the advertisement does not suggest a fit of any kind but rather a slapstick accident. The character is not visibly hurt, as demonstrated by the fact she gets up straight away after hitting the wall. The character hitting the wall was a humour device designed to dramatise how dangerous the character thought “LHC” was and how quickly she wanted to escape the lift. The stunt was undertaken by a professional stunt artist in a controlled environment and no one was injured in the making of the advertisement.*

### *2.6 - Health and Safety Within prevailing Community Standards*

*To punctuate the miscommunication, Janice, thinking that she’ll catch LHC, bursts head first out of the lift straight into the wall ahead. As she does this, one of the male characters does what many people do when unexpected physical situations arise, and takes out his phone and snaps a photo of Janice on the floor with the hole in the wall just above her. The character Janice was specifically dressed in tights to ensure to maximum modesty.*

*As is shown, the male character does this in full view of all the other people in the lift, and not in secret as the complainant suggests. His action was in no way intended to suggest sexual photography but rather references the popular culture trend of capturing ‘fails’. He does this to capture the surprise accident (as is commonly done in today’s society) and not to secretly and maliciously photograph up Janice’s skirt as is suggested. Furthermore we are confident that the shocked and surprised reactions of all in the lift suggest that this purely light hearted and in no way sleazy or untoward.*

#### *Purpose of the ad*

*The purpose of this ad is to educate people about the fact that many of them are currently carrying the Lifetime Health Cover Loading on their private health insurance, and now know it.*

*By treating the LHC like a disease, iSelect aims to convince young Australians that they should get private health insurance now to avoid getting LHC.*

#### *iSelect’s tradition of advertising*

*iSelect has a longstanding tradition of humorous and irreverent advertising – a trait that is widely known and loved by many Australian consumers. In keeping with this tradition, this advertisement is designed to be humorous and playful and in no-way malicious or discriminatory.*

#### *CAD Rating*

*We also believe the spots are entirely appropriate for their intended audience, as indicated by the W ratings.*

*In summary, iSelect submits that the advertisements in question do not breach any part of Section 2 of the AANA Code of Ethics. Specifically, iSelect submits that these advertisements*

*do not breach the AANA's code in relation to sections 2.1, 2.2, 2.3 and 2.6.*

*We thank the ASB Board for consideration of iSelect's response to these complaints, and trust the information provided satisfies the ASB's request in full.*

*Please note the advertisement in question is no longer on air due to the relevant campaign period having ended on 30 June 2017.*

## **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 complainants' concerns that the advertisement depicts a woman falling and smashing her head into a wall which is distressing, and that a man then takes a photo up her skirt which is inappropriate and suggests it is okay to take secret photos of a person.

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

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board noted that this television advertisement features a woman tripping as she tries to exit a lift quickly and we see her fall against the wall, making a hole in the plasterboard, while a man in the lift takes a photo on his mobile phone.

The Board the complainant's concern that the depiction of the woman smashing her head into the wall is distressing.

The Board noted that when the woman bangs her head against the wall there is an accompanying crunching noise and considered that this scene is quite confronting. The Board noted that there is no blood and considered that the depiction of the woman energetically dancing at the end of the advertisement, albeit with a bandaged head, is strongly suggestive of the woman being relatively unharmed by the incident. The Board noted the overall humorous tone of the advertisement and considered that the depiction of the woman tripping against the wall is slapstick and unrealistic rather than violent.

The Board expressed sympathy with the complainant regarding their personal experience but considered that in this instance the advertisement did not depict or portray violence.

The Board determined that the advertisement did not breach Section 2.3 of the Code.

The Board 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 Board noted the complainant's concerns that the advertisement depicts a man taking a photo up a woman's skirt and that this is inappropriate behaviour.

The Board noted that when the man takes the photo of the woman he is in a lift surrounded by other people and considered that his behaviour is not secretive or sinister. The Board noted that taking photos of people in vulnerable situations against their knowledge is not appropriate but considered that in this instance, in the context of a humorous advertisement for health insurance, the depiction of a man, surrounded by other people, openly taking a photo of a woman who has had a minor accident is not inappropriate behaviour and did not appear to be a photo up her skirt, and is unlikely to encourage people to take photos of vulnerable people against their knowledge.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards and 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 Board dismissed the complaints.