



Case Report

1	Case Number	0329/11
2	Advertiser	Australian Pensioners Insurance Agency
3	Product	Insurance
4	Type of Advertisement / media	TV
5	Date of Determination	14/09/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The TV ad opens with a view of a 4WD vehicle and caravan ('the rig') travelling through the Victorian countryside on a private track. Next we then see a lady packing some things in the caravan in front of her house. We then begin to hear a phone conversation in the background between two ladies regarding insurance for the caravan. As the ad goes on we follow the couple, Sue and Terry, as they embark on a trip with their caravan. They leave their residential street for the main highway, stopping on the side of a road to check a map, then visit a service station and afterwards arrive at a caravan park. Travelling again, they venture off the main road following a forest track, in places merely a dirt track. They stop to check directions and walk the dog, including on the beach. Their trip ends with the caravan stopped on top of a hill overlooking the ocean where they have set up for a meal and Terry's nap. The ad finishes with the Apia logo, slogan and phone number.

THE COMPLAINT

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

*Road safety environmental vandals unsafe or least unwise stopping.
Regarding road safety the female spread the map out across the dashboard whilst the vehicle is in motion. The driver touches the map on the top right hand side. The map must obscure some of the driver vision. The driver's attention is on the map indicating by him point and touching it. It is obvious his attention is not on driving at the time. Who would condone this breach of safety how many times do we hear it came from nowhere just prior to an accident?*

The car is a 4 wheel drive and caravan shown parked on top of a headland. There is no track to this point on the headland. It seems evident they have driven over low scrub and grass to get to this point. This is evident by the grass shown being as high as the centre of the front wheel. Irresponsible people are not taking care of the environment. Apart from the immediate damage to the flora corrosion may occur due to the many wheel depressions they would have made.

Stopped on the incorrect side of the road. It may be unwise/ unsafe/ illegal to stop on the side of the road not in the direction of travel.

The frequency of these advertisements continues to show at least in a subliminal way irresponsible behaviour.

Call me a pedant but.....

Beginning of ad large 4x4 vehicle towing a equally large caravan is seen to exit a side street & turn right onto a main road unable to execute the turn in one motion the car/caravan train is seen to stop in the middle of the intersection to give way to another car (unseen). Whilst the 4x4 is positioned in the middle of a reasonably wide median strip the caravan attached is taking up one lane (of 2) of the roadway just crossed this is not only illegal but extremely dangerous.

The ad is fine otherwise but I feel this appalling driving example (3 secs?) should be deleted it adds nothing to value of the commercial.

THE ADVERTISER'S RESPONSE

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

The concerns raised by the complainants pertain to section 2.6 – Health and Safety within prevailing Community Standards of the AANA Code of Ethics:

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

We note that the advertisement is not directed towards the promotion of a motor vehicle brand, so section 2.7 AANA Code of Ethics importing the Motor Vehicle Advertising Code does not apply (as per the ASB Motor Vehicle Advertising Code Practice Note (no. 5) at www.adstandards.com.au/files/view/?id=177).

As of 7th August 2011, the commercial in question is no longer on air in all states except NSW. In NSW the commercial will cease being on air from 10th September 2011. There are currently no plans to put this commercial to air after this date, however, there is a possibility that it will air again sometime in the next 12 months.

Complaint Letter 1 – “Road safety, environmental vandals, unsafe or least (sic) unwise stopping. Regarding road safety the female spread the map out across the dashboard whilst the vehicle is in motion. The driver touches the map on the top right hand side. The map must obscure some of the driver vision. The driver’s attention is on the map indicating by him point (sic) and touching it. It is obvious his attention is not on driving at the time. Who would condone this breach of safety, how many times do we hear it came from nowhere just prior to an accident?”

This scene shows the typical everyday scenario of the husband and wife retiree couple on a holiday road trip with their 4wd motor vehicle and caravan rig. The female passenger opens

a road map, these being notoriously large and also indicating to viewers that they are travelling an unfamiliar route. The opening of a large map (as most are) in the vehicle is meant to invoke familiar feelings of travel before the days of satellite navigation technology. The driver, realising the map is beginning to intrude on his space, promptly uses his left hand to push the right top corner of the map to the dashboard and immediately indicates to pull-over so as to properly address the map.

We acknowledge that the driver takes one hand off the steering wheel for a moment to do so, but we don't accept that the driver is looking at the map rather than the road. The driver's head is out of frame on the right hand side and would likely have come into frame had he looked to the map. The passenger is not pointing to anything on the map, rather she runs her right hand from left to right along the map on the dashboard so as to flatten it from obscuring the view of the road by either of them.

The fact is the camera angle from the centre of the back seat is low and does not represent the superior road view perspective the driver has at the front right of the cabin perched in the driver's seat.

Our view is that such actions are not contrary to Prevailing Community Standards of health and safety, nor are they in breach of Australian road rules including the Victorian Road Safety Rules 2009 ('the Road Rules'), the state where the filming took place. It is a common and familiar occurrence for many Australians, particularly more senior Australians, being our target market.

Complaint Letter 1 – "The car is a 4 wheel drive and caravan shown parked on top of a headland. There is no track to this point on the headland. It seems evident they have driven over low scrub and grass to get to this point. This is evident by the grass shown being as high as the centre of the front wheel. Irresponsible people are not taking care of the environment. Apart from the immediate damage to the flora, corrosion (sic) may occur due to the many wheel depressions they would have made."

This scene was filmed on private property after obtaining the necessary approval from the land owner. The vehicle and caravan are parked just off a gravel track which is out of shot. The angle of the shot does not show the true lay of the land with the vehicle being a considerable distance from the edge of the headland. There are no tyre marks or any other sign of desecration of nature. The caravan is parked on reasonably short cropped grass and weeds, but these appear a bit longer where the vehicle is located. The front wheel of the vehicle that the complainant appears to be referring to is not in shot.

Our view is that being parked on top of moderately long grass and weeds does not constitute environmental damage. The image is designed to depict a love of nature, namely the ocean and foreshore, and a sense that the travellers have reached their magnificent destination. As such, we contend that this scene does not depicting a scene contrary to Prevailing Community Standards of health and safety.

Complaint Letter 1 – "Stopped on the incorrect side of the road. It may be unwise/ unsafe/ illegal to stop on the side of the road not in the direction of travel."

The scene in question has the 4wd vehicle and caravan rig stopped on the right hand side lay-by of a narrow and remote Eastern Victorian track in alpine state forest (as indicated by the previous shot of the map), with no clear space to pull over on the left hand side due to scrub and trees. The travellers are reviewing the map on the bonnet of the car. In this instance, utilising the lay-by on the right hand side of the road is the safest course of action to ensure if there is any other traffic, the track is not blocked

It is our view that keeping the track clear is the primary concern given the obviously remote bush location and is therefore not contrary to Prevailing Community Standards on health and safety.

Furthermore, in qualitative research conducted four weeks after the commercial had first been to air, after all the respondents had been shown the TV commercial, none of the 171 respondents made any comment that suggested they found this scene to represent dangerous road behaviour. .

Complaint Letter 2 – “Beginning of ad large 4x4 vehicle towing a equally large caravan is seen to exit a side street & turn right onto a main road, unable to execute the turn in one motion the car/caravan train is seen to stop in the middle of the intersection to give way to another car (unseen). Whilst the 4x4 is positioned in the middle of a reasonably wide median strip the caravan attached is taking up one lane (of 2) of the roadway just crossed, this is not only illegal but extremely dangerous.”

In this particular scene, the couple are turning from their quiet suburban street out onto the reasonably busy highway to begin their travel adventure. Contrary to the complaint, they do not stop once they enter the highway, although they slow to time their entry into the far lane (traffic running right to left on the screen) giving way to through traffic.

Under the Road Rules, exit from the centre medium strip is effectively a ‘Give Way’ (as indicated by the broken lines on the road). So the driver is entitled to stop or exit slowly to ensure safe egress into the far lane:

“Intersections

After stopping at a Stop sign or line, or when facing a Give Way sign or line at an intersection, you must give way to any vehicle in, entering or approaching the intersection except:

- *a vehicle making a U-turn*
- *a vehicle turning left using a slip lane*
- *an oncoming vehicle turning right if that vehicle is also facing a Stop or Give Way sign or line.*

When turning at an intersection (not including a roundabout) you must give way to pedestrians crossing the road you are turning into and also pedestrians on a slip lane, when turning using a slip lane.

Divided roads

When a two-way road is divided by a median strip, a Give Way or Stop sign applies to the whole of the intersection. When turning from a divided road, you must obey the signs on the road you are turning from. If there is no sign, you must give way to traffic when entering a road from a break in the median strip after turning.

Entering the traffic stream

Whenever you enter the traffic stream from a parked position, or through a break in a median strip, you must give way to all vehicles travelling on the road.”

(source: <http://www.vicroads.vic.gov.au/Home/SafetyAndRules/RoadRules/GiveWay.htm>)

Unfortunately, the 4wd vehicle and caravan rig is particularly long, so the rig extends beyond the width of the centre medium strip. But the driver carefully completed the turn in one slow and calculated movement.

At the moment when the vehicle in the near lane (traffic running left to right on the screen) is passing the rear of the caravan, you can see from the shadow of the back of the caravan on the road that it is not obstructing that vehicle’s lane – and it is clear that the vehicle does not have to slow down due to obstruction. In any case, it is that driver’s responsibility to slow to a cautionary speed if it is approaching an intersection where a vehicle has already entered the intersection and the vehicle itself has reached the medium strip

For a large rig entering a reasonably busy highway intersection without traffic lights, we would submit that it is both a legal and reasonable manoeuvre. The ideal of the rig passing through the intersection without any other vehicles coming into shot is not one that the advertising agency can control on a busy dual carriageway during the day. The complaint

only arises because of the length of the rig, which can legally be driven on Victorian roads. We don't believe that this manoeuvre is contrary to Prevailing Community Standards of health and safety. We think caravan owners in suburban areas of Australia will relate to the difficulties of manoeuvring their rig onto a highway, and anyone else recognising this difficulty might be reminded to look out for them.

Furthermore, in the aforementioned qualitative research conducted four weeks after the commercial had first been to air, after all the respondents had been shown the commercial, none of the 171 respondents made any comment that suggested they found this scene to represent unsafe behaviour.

On this basis, we contend that the commercial does not show any illegal or dangerous driving practices, and is not contrary to the Prevailing Community Standards on health and safety.

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 shows scenes of unsafe and irresponsible driving behaviour.

The Board reviewed the advertisement and noted the advertiser’s response.

The Board noted that the advertisement is not an advertisement for a motor vehicle and that therefore the Federal Chamber of Automated Industries Voluntary Code of Practice for Motor Vehicle Advertising does not apply.

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 the advertisement shows a 4WD vehicle and caravan (‘the rig’) being driven in various town and country scenes while a voiceover talks about insurance for the caravan.

The Board noted the complainants’ concerns that the use of a map on the dash board of the vehicle while it was being driven was dangerous and a distraction to the driver. The Board considered that the advertisement did not show the driver reading or attending to the map while driving and that most members of the community would relate to similar scenarios where the passenger is referring to a map for directions on a trip.

The Board then considered the complainants’ concerns that the vehicle is stopped on the wrong side of the road. The Board considered that the road shown within the advertisement is a narrow country road that could be a one-way road, and included a large shoulder where the car and caravan have pulled over, seemingly for a temporary stop and there is no indication that the vehicle would be parked for a prolonged period of time.

The Board then considered whether the driving and set up of the caravan on the headlands space was indicative of environmental negligence or disregard. The Board considered that it was acceptable to show a vehicle driving to a scenic location to set up a caravan and camping equipment with the intention to holiday in that location and that there was no clear indication that there had been any unwarranted environment impact or environmental damage. The Board noted that the couple were not seen to be damaging or harming the environment and that most members of the community would consider this behaviour as appropriate and acceptable in the context of the advertisement.

The Board finally considered the complainants' concerns that the car and van stopped in an unsafe manner in the middle of a busy intersection for an extended period. The Board considered that the driving behaviour depicted in this scene was not irresponsible and was acceptable driving practice for a vehicle of considerable length and that the driver was not behaving in a manner that would be considered unsafe or of concern to the broader community.

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.