



Case Report

1	Case Number	0345/15
2	Advertiser	Youi Car Insurance
3	Product	Insurance
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	09/09/2015
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.6 - Health and Safety Motor vehicle related
- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

Youi is currently airing a series of television advertisements (“TVCs”) for our car insurance product. Two (2) of the TVCs in the series depict three vehicles travelling on a road with the vehicles’ drivers and passengers singing to background music. As each vehicle drives into view, it shows the vehicle occupants singing jovially and Youi’s average premium for the vehicle and driver is displayed; together with key insurance risk rating factors.

The TVC that we consider is the specific subject of these complaints is 30sec long and involves a Toyota Corolla, a Mazda CX5 and a Ford Ranger. The complaints centre on the second vehicle that drives into view, the Mazda CX5 driven by a woman with three younger male passengers (Youi notes there is also a 15sec TVC with just the Mazda CX5). The passengers are singing and dancing (hand and upper body movements only). A male passenger in the rear of the vehicle is taking photographs or videoing using his mobile phone. The driver of the Mazda CX5 turns briefly to look at the passengers in the rear of the vehicle, laughs and then turns her head back towards the road.

THE COMPLAINT

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

In these adverts the driver is depicted being happy and singing along with the passengers, however the driver is also shown looking towards the passenger in the front seat and turning

around to look at the passengers in the rear seat. This would indicate the driver is driving and taking their eyes off the road, which in a real life situation could result in the car veering onto the wrong side of the road and having a head on collision. In real life it could also result in the vehicle crashing into a light pole or tree. It only takes a second or 2 for this to happen. Totally irresponsible for an insurance company depicting this type of behaviour. Rest assured if in real life and a serious accident occurred, and it was proved to be driver negligence, I'm sure the said insurance company would not honour a claim.

During the advertisement it shows a car of young adults singing and taking photos on the mobile and the driver turning to look at the mobile. I think this promotes it is ok to interact with friends and mobiles whilst driving. It may also be seen by young adults that if you are insured it is ok for this distraction.

I object to a car full of young people distracting the driver of the vehicle by using a mobile phone in the back seat causing the driver to take her eyes off the road whilst singing and participating with the mobile phone users in the back seat. This type of behaviour causes death every day on the roads.

THE ADVERTISER'S RESPONSE

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

Compliance with the AANA Code of Ethics:

All Youi's advertisements are created by Youi's in-house marketing department. Youi does not use an external advertising agency or media buyer. Youi always takes a considered and compliant approach to the production of all TVCs. Youi are also cognisant of its obligations under the Australian Association of National Advertisers' Code of Ethics ("the Code") and have a stringent compliance regime to ensure all advertisements we produce not only comply with the Code, but all legal and regulatory requirements. Prior to production, all TVC scripts and creatives are reviewed by senior executives from Youi's Legal and Compliance department, Actuarial departments and also by the Chief Executive Officer. TVCs are always reviewed externally by CAD and we often seek advice from external legal prior to being aired.

The TVC that is the subject of these complaints was created to promote Youi's competitive car insurance premiums for individuals with certain risk characteristics and key rating factors. We do not consider the TVC promotes irresponsible driving in any way. The intention of the TVC is to create a memorable connection between the song, the people enjoying themselves in their own unique manner, the competitive insurance premium, and the Youi brand itself.

Youi takes road safety extremely seriously and has taken utmost care to depict safe driving within the TVC. The driving behaviour depicted is not reckless, irresponsible or careless in any way. The TVC was filmed under controlled conditions in a non-urban setting, using professional drivers. The three (3) cars appearing together also does not represent a typical driving situation that would occur on a gazetted street or road. The speed of all vehicles was not excessive, nor would it be considered unusual for the controlled circumstances. We consider the overall impression of the TVC does not encourage or promote unsafe behaviour

or unsafe driving practices. All occupants of the vehicle are wearing seatbelts; are not engaging in any behaviour that would be considered contrary to prevailing community standards relating to health and safety; and all are complying with all road rules and regulations.

It is recommended by road traffic authorities across Australia that low-risk driving includes observational scanning which means the drivers are complying with road rules and ensuring they are aware of their surroundings. The female Mazda CX5 driver, along with all the drivers depicted in the TVC, are in full and complete control of their vehicles at all times and there is no suggestion they are not fully aware of their surroundings. The female Mazda CX5 driver with three young males in the vehicle specifically quickly looks to the passengers in the back and then looks back to the road, which is in keeping with responsible and safe driving actions, ensuring she is aware of her surroundings at all times. She does not touch or look directly at the mobile phone during the TVC.

Conclusion:

We consider our submission outlines Youi's responsible approach to the production and airing of this TVC; with lawfully acceptable and safe actions exhibited by the actors who have complied with all Australian Road Rules and prevailing community standards of health and safety.

Youi further submits the TVC complies with section 2 of the Code. We do not consider further commentary is required with respect to sections 2.1 to 2.5 of the Code.

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 people singing, dancing and using a mobile whilst driving in a car which is dangerous and against Prevailing Community Standards on safe driving practices.

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

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 that there are two versions of this television advertisement, both featuring passengers in a vehicle singing.

The Board noted it had previously dismissed similar complaints against an advertisement for Kia which featured a woman singing and dancing whilst driving (0231/14):

"...the Board noted that the woman is singing and performing dance-style movements with her body. The Board noted that in some scenes the woman has only one hand on the steering wheel. The Board noted the Australian Road Rules (February 2012) provide that "A driver

must not drive a vehicle unless the driver has proper control of the vehicle". The Board noted that the driver in the advertisement appears to be in full control of the vehicle at all times and considered that although the woman is singing and performing some dance movements with her body there is no suggestion that she is not aware of her surroundings and in the Board's view her driving appears safe and controlled."

In the current advertisement the Board noted that in the shorter, 15 second, version whilst the female driver and three passengers are all depicted singing along to a song, the driver does not take her hands off the steering wheel or her eyes off the road. The Board considered that this version of the advertisement does not depict material contrary to Prevailing Community Standards on safe driving practices.

The Board noted in the longer, 30 second, version of the advertisement the first car only has a driver and considered that this driver does not take her eyes off the road and appears to be driving in a safe and controlled manner.

The Board noted that there is a third car shown with two male occupants and a dog on the rear seat. The Board noted that the driver briefly glances at his passenger but considered that this glance is very brief and the driver does not appear to be distracted from his driving. The Board considered that this driving scene does not depict, encourage or condone unsafe driving behaviour.

The Board noted that the second car contains the same group of people from the shorter version of the advertisement and we see the driver turn briefly a couple of times in succession to glance in the rear of the car. The Board noted that prior to the driver turning her head we see the male passengers in the rear of the car using their mobile to take a photo of the driver and considered that the editing of the advertisement is suggestive of the woman turning to look at the mobile phone. The Board noted that the issue of driver distraction is of serious community concern and the government ('Get your hands off it' campaign for Transport for NSW, 'Distractions' for Motor Accident Commission, Government of SA) and road safety groups (<http://www.australianroadsafetyfoundation.com/>, www.keepyoureyesontheroad.org.au) are focused on educating drivers about using mobile devices whilst driving. The Board considered that the depiction of a driver turning to look at a mobile phone is not a good example to set and in the Board's view the advertisement does depict, encourage and condone an unsafe driving practice that is against Prevailing Community Standards.

The Board considered that the advertisement did depict material contrary to Prevailing Community Standards on health and safety.

The Board determined that the advertisement did breach Section 2.6 of the Code.

Finding that the advertisement did breach Section 2.6 of the Code, the Board upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

Youi has reviewed the draft Case Report detailing the Board's determination to uphold the complaint(s) and wish to inform you that Youi had considered prevailing community standards regarding road safety and driver awareness and we do not believe the advertisement/television commercial ('TVC') encourages unsafe driving behaviour. However, we unequivocally accept the Board's decision and have therefore elected to discontinue the TVC immediately.