



# Case Report

1	Case Number	0363/15
2	Advertiser	Apple
3	Product	Information Technolo
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	23/09/2015
6	DETERMINATION	Dismissed

## ISSUES RAISED

- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

The advertisement features a montage of short sequences depicting people in everyday situations wearing the Apple Watch and using its various functions.

## THE COMPLAINT

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

*Ad shows man sleeping on couch with baby on stomach. This is extremely dangerous and should not be encouraged as the baby can roll and be trapped between a person and the couch - babies have died due to this.*

## THE ADVERTISER'S RESPONSE

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

*The advertisement under complaint does not make any representations condoning, endorsing or otherwise promoting any particular activities. Rather, it seeks only to depict everyday situations in which ordinary people may integrate the Apple Watch into their lives and in which the Apple Watch may assist and benefit through its functions, including its stopwatch/timer function, telecommunications function, alarm function and entertainment*

*and gaming functions.*

*The advertisement does not in any way encourage any viewer to adopt any particular form of behaviour and does not raise any issues of concern to which section 2 of the Code is directed:*

*Section 2.1: The advertisement features a variety of people from different racial backgrounds, ethnicity and age and does not depict any material that could be described as discriminating against or vilifying any particular section of the community;*

*Section 2.2: The advertisement does not contain any sexual connotations or any material that could be described as exploitative or degrading of any individual or group of people;*

*Section 2.3: The advertisement does not contain any violent material in any context;*

*Section 2.4: The advertisement does not contain any sexual material or portray any nudity;*

*Section 2.5: The advertisement does not contain any strong or obscene language; and*

*Section 2.6: The advertisement does not contain any material that could be considered contrary to prevailing community standards on health and safety, particularly given that (as noted above) the advertisement itself contains only a montage of short sequences depicting people in everyday situations, wearing the Apple Watch, and does not condone, endorse or otherwise promote or support any particular activities.*

*I understand from your letter and the attached complaint that the complainant is concerned that the advertisement shows a man sleeping on a couch with a baby on his stomach and that "this is extremely dangerous and should not be encouraged as the baby can roll and be trapped between a person and the couch - babies have died due to this".*

*The section of the advertisement to which the complainant refers is a 1-2 second clip of a father lying on a couch, with a child lying on his chest. During that 1-2 second clip, the viewer is clearly able to hear that the father is lying in front of a television that is switched on and can see, from the movement of the child, that the child is not asleep but is merely lying down on the father and that the father and child are not set up intentionally to sleep (and it is not necessarily the case that the father is even sleeping). It is also clear from the size of the child and the ease with which the child is able to adjust his position on the father that the child is not a baby. I understand that the child is actually a 5-year old, at which age a child would be able to move independently*

*In this context, Apple does not consider that the 1-2 second vignette, featured amongst a range of other vignettes in a 30 second commercial could be taken by a viewer, by the momentary depiction of a restful moment of togetherness of parent and child in question, to promote a hazardous activity such as 'co-sleeping' arrangements contrary to prevailing community standards on health and safety.*

*While it is not clear the potential cause of the harm to the child to which the complainant refers, to the extent that the complainant is suggesting that the advertisement in any way actively promotes, encourages or condones 'co-sleeping' of parents and babies (which Apple does not think is an inference which arises from the depiction), and that such promotion is contrary to community standards on health and safety perhaps by increasing the risk of the baby being trapped between the father and couch and coming to harm, it does not appear from the configuration of the persons depicted in the commercial that that is a significant risk in this case. This is particularly so given the age of the child and the child's ability at that age to move independently of the father, and the lack of room for movement on the couch by the father. Practically speaking, five year olds are large (as is the child in this ad) and the father wouldn't be able to roll over on the child without one or both waking up.*

*To the extent the complainant is concerned about increased risk of Sudden Infant Death Syndrome, according to the SIDS and Kids organisation, which provides professional information and parental advice concerning the risk of SIDS in babies, the risk of SIDS in*

*babies over six months old is extremely low. In its "Safe Sleeping" information brochure (available at <http://www.sidsandkids.org/wp-content/uploads/SIDS053-Safe-Sleeping-Long-Brochure-Updates-web.pdf>), SIDS and Kids notes that "Babies over the age of 4 months can usually turn over in the cot. These babies may be placed in a safe baby sleeping bag (i.e. fitted neck and arm holes, and no hood). Put them on the back but let them find their own sleeping position. The risk of sudden infant death in babies over six months is extremely low." The SIDS and Kids "Safe Sleeping" brochure is endorsed by: Paediatrics & Child Health Division, The Royal Australasian College of Physicians; Australian College of Midwives. While not in fact a feature of the Apple Watch promoted in the advertisement in question, I should also note that there are a large number of apps available to parents and carers from the Apple App Store that enable them to use their Apple Watch (and other Apple devices such as iPhone) as a baby monitor to enable them to monitor their babies while they are sleeping. Examples of such apps are the Baby Monitor 3G and Baby Monitor & Alarm apps developed by TappyTaps s.r.o. As with all apps available through the Apple App Store, Apple does not endorse the efficacy of these third party apps, however, I note that by using these or similar apps parents are able to use the Apple Watch (and other Apple devices) to enhance the safety of their babies.*

*I trust that this information will assist the Board in its consideration of the complaint, which Apple considers for the reasons above is without foundation having regard to the requirements of the AANA Advertiser Code of Ethics and community standards and expectations more broadly.*

## **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 complainant's concern that the advertisement depicts unsafe behaviour of a father sleeping with a child lying on him and that this could lead to harm to the child.

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 the advertisement features a montage of short sequences depicting people in everyday situations wearing the Apple Watch and using its various functions.

The Board noted the advertisement includes many scenes but noted that in particular the complainant is concerned about the scene of a man resting on a couch with a young child asleep (or resting) on his chest and stomach.

The Board noted that there is genuine community concern regarding baby and child safety particularly in regard to sleeping, and general toddler safety around the home.

The Board noted that the scene is depicting a Father asleep on the couch with the child lying face down on the father's chest. The father has his arm around the child. The Board noted there is light coming into the room from a window and agreed that the scenario is a depiction of a situation where the Dad may have fallen asleep while watching television during the day

and is not a planned sleep and it does not give the impression that this is the location or the position where the Father and child regularly sleep.

The Board noted that the depiction is a portrayal of a tender moment between father and child and is not suggesting that parents and children should sleep like this regularly.

The Board agreed that the child is not a baby and appears of an age that it would be able to alert the Father to a problem if the child was in a position of harm.

Based on the above, the Board determined that the advertisement did not depict material contrary to prevailing community standards on health and safety and did breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.