



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0374-20</b>
<b>2. Advertiser :</b>	<b>Telstra</b>
<b>3. Product :</b>	<b>Mobile Phone or SMS</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Pay</b>
<b>5. Date of Determination</b>	<b>16-Dec-2020</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

### DESCRIPTION OF ADVERTISEMENT

This Pay TV advertisement features various people singing in their cars, using a mobile phone to video call each other.

### THE COMPLAINT

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

*It clearly shows towards the end of the ad two people in spilt screen on the phone, singing to each other via the phone. One of which is driving! Even though the passenger in all instances is the one holding the phone it is ILLEGAL to be viewing a phone while driving regardless of who is holding it, especially for such a trivial reason. This encourages dangerous and reckless driving and should be in some breach of some guideline as it actively promotes illegal life threatenjng behaviour in a positive, joyful way.*

*Turning a car into a web chat videoke where drivers will be singing and a web chat is open is very irresponsible. Even if the driver appears to be watching the road, young people especially will see this is acceptable behaviour and are highly likely to be distracted while driving . One of the ladies actually glances at the iPhone the passenger holds while she drives. In reality, this would be occurring much more*



*frequently than one glance and it's disgraceful that Telstra would use this form of advertising. It must be pulled off the air immediately. Cars have enough distractions without Telstra encouraging people to be in singing video chat sessions while driving when they should be concentrating on driving. This is a danger to the driver and those around the driver and could very easily carry a deadly consequence.*

## **THE ADVERTISER'S RESPONSE**

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

*I refer to your letter regarding a complaint received by the Advertising Standards Community Panel about Telstra's recent iPhone 5G network advertisement.*

*Telstra ('We') is a voluntary member of the Advertising Standards Board and we take community standards very seriously. We take a lot of care to ensure that the preparation and publishing of our advertising material is not only compliant with the AANA Advertiser Code of Ethics ('Code') but that we set an industry standard.*

*We have set out responses to each of the relevant sections of the Code to assist with your consideration of the advertisement under complaint. We have also included, in our attachment, the information requested in your letter. Our belief is that the complaint refers only to an alleged breach of clause 2.6 of the Code and therefore the other sections referenced are addressed in brief.*

*In short, we believe that this advertisement does not breach any of the advertising standards referenced.*

### *Telstra iPhone 12 Pro 5G Network Advertisement*

*This advertisement is a 15 second spot that features our 5G network technology and the iPhone 12 Pro. It features a family travelling in their car on a road trip. The advertisement shows a male passenger in the car downloading a playlist in Apple music which he then sings along to on the iPhone 12 Pro using the Group FaceTime application with the other passenger in a different car. The iPhone is always held by the passengers and at no time in the advertisement do the drivers interact with or become distracted by the iPhone, they simply sing along with the family. This advertisement does not in any way discriminate, exploit, degrade or depict material which vilifies a person or section of the community. There is no violence in this advertisement, nor any depiction or inference of sex, sexuality or nudity. Neither the voiceover nor actors use any strong language.*

*Furthermore, the communication is clearly an advertisement showcasing a benefit of Telstra's 5G network and consumers would be well aware that Telstra is promoting the benefit of being a Telstra customer.*

*2.6 - Health and Safety Unsafe Behaviour, within prevailing Community Standards*



*The complaint alleges the advertisement features unsafe and illegal driving activity. Telstra rejects the assertion that the advertisement features any such activity. The advertisement in fact adheres to the road regulations in NSW (as most states and territories align to this legislation). The advertisement features a driver and a passenger of a vehicle singing along to a playlist (and in the 30s variant with the passenger on a Facetime call with the other passenger in another car) on the iPhone. Road regulations set out that phones should not be 'used' by drivers while the vehicle is on. In accordance with this, the advertisement shows the passenger holding the phone. At no time does the driver interact with, look at or become distracted by the iPhone. The younger female driver's eyes flicker away from the front windscreen which is consistent with normal driving behaviour. We are all required to check our mirrors for hazards*

*In awareness of the fact that distractions are a significant issue on the road, the phone is purposefully held close to the passenger and angled away from the driver so they cannot see the screen and be distracted by it. The advertisement is intentionally produced to adhere to road regulations, and therefore with prevailing community standards. . Therefore, we don't believe there is any breach of the advertising standards Code of Ethics to warrant this complaint being upheld.*

*We trust the above will allow Ad Standards to resolve this matter*

## **THE DETERMINATION**

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

The Panel noted the complainants' concerns that:

- Even though the passenger in all instances is the one holding the phone it is illegal to be viewing a phone while driving regardless of who is holding it.
- Even if the driver appears to be watching the road, young people especially will see this is acceptable behaviour and are highly likely to be distracted while driving .
- One of the ladies actually glances at the iPhone the passenger holds while she drives.

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

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

The Panel noted that in each scene the passenger is the person holding the mobile phone, and that the drivers all have their hands on the steering wheel at all times.



The Panel considered that the concept of shared singing is not uncommon on road trips, and noted that it can be a tool to assist in fighting fatigue.

The Panel noted the advertiser's response that the phone is purposefully held close to the passenger and angled away from the driver so they cannot see the screen and be distracted by it.

The advertiser acknowledges a specific concern that one driver appears to glance at the mobile phone while driving. This appeared briefly in one of the 15 second versions of the advertisement. The Panel considered that in all scenes there is no clear indication that any drivers are looking directly at the phone, and although a fleeting scene shows a driver's face on a mobile phone screen it is clearly at an angle being filmed by someone else and it is not evident that the driver looks directly at the phone and away from the road.

The Panel noted that there are many reasons for which drivers take their eyes off the road (such as changing the radio station, checking mirrors etc). The Panel considered that in the context of a 15 second advertisement, a brief scene showing her potentially not looking directly at the road while driving at a speed which would not breach the law is unlikely to be considered by most members of the community to be depicting or promoting unsafe driving practices.

The Panel noted the concern that young people will see the behaviour depicted in the advertisement as acceptable behaviour and are highly likely to be distracted while driving. The Panel noted there is significant community concern relating to younger drivers and safe driving. The Panel considered that the advertisement depicts adults who appear to be travelling together and who do not appear to be driving in an unsafe manner, and the depiction of them engaging in group singing is not shown to be unsafe in the advertisement.

### **Section 2.6 conclusion**

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

### **Conclusion**

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaints.