



Ad Standards Community Panel  
PO Box 5110, Braddon ACT 2612  
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited  
ACN 084 452 666

## Case Report

1. Case Number :	0383-19
2. Advertiser :	Hawkers
3. Product :	Clothing
4. Type of Advertisement/Media :	SMS
5. Date of Determination	27-Nov-2019
6. DETERMINATION :	Upheld - Not Modified or Discontinued

### ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

### DESCRIPTION OF ADVERTISEMENT

This SMS message states:

"I followed you a few nights ago. Let's spend eternity together. Use the Hawkars Halloween 2for1 offer! Shop now!"

### THE COMPLAINT

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

*But the 'I followed you' is highly offensive to anyone who may have been stalked. 1 in 5 Australian woman have been stalked. More than one woman a week is killed by her partner.*

*I have contacted the brand for a retraction and apology too.*

*The text message uses violent and intimidating language to draw attention to itself. I, and many other consumers, are victims of domestic violence and stalking, and such advertising techniques is threatening and triggering.*

*I felt scared for my life as the message said someone had been watching me and it wasn't obvious where this message was coming from and I also received more than 1 message in a time span of 15 minutes after I tried to unsubscribe. I deleted the message out of fear but people on their Facebook page may have saved an image of it.*



*Many women are subject to stalking. I felt very uncomfortable and creeped out to think some had been following me until I realised it was an advertisement*

#### **THE ADVERTISER'S RESPONSE**

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

*Advertiser did not provide a response.*

#### **THE DETERMINATION**

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

The Panel noted the complainants' concern that the advertisement:  
Is highly offensive to anyone who has been stalked  
Is threatening and triggering  
Caused them fear and distress

The Panel viewed the advertisement and noted the advertiser did not respond.

The Panel 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 Panel acknowledged that there is a heightened concern in the community relating to stalking and people being followed, and that this is a behaviour that evokes fear in many people, particularly women.

The Panel noted that the advertiser had not responded to the complaints and the target list of people who received the message was unknown, however noted that the complainants who received the message were female.

The Panel considered that perceived intent of the advertisement was to 'scare' recipients of the message as a link to its Halloween promotion.

The Panel noted that it had previously considered a similar issue in case 0418-11, in which:

"The Board noted a number of references to "stalking", a mildly sexualised reference to being able to do a variety of things "without having your pants on..." and a reference to "stalking" being a victimless crime. The Board considered that the advertisement was intended to be humorous but noted with concern that stalking is a



crime and that it is not a crime that is victimless. The Board expressed concern at the advertisement's encouraging (even in a humorous manner) a crime. In the Board's view it is possible that some members of the community would see the advertisement as condoning or at least giving some legitimacy to stalking and that this is a message that the community views as unacceptable. The Board considered that this advertisement depicted material contrary to prevailing community standards on health and safety and was in breach of Section 2.6 of the Code."

In the current advertisement, the Panel considered that in the absence of an alternate explanation, the advertisement was making light of a serious community safety issue and was likely to cause distress amongst recipients.

The Panel acknowledged that the end of the message was a clear link to the promotion of a sale associated with Halloween, however considered that the first impression of someone reading the message would be that they are being followed.

The Panel considered that there is a community expectation that advertisers should not make light of personal safety issues in the community and should not attempt to capitalise on people's fear.

The Panel further considered that there is a community expectation of safety and wellbeing, particularly associated with unsolicited messages to a person's mobile phone and that this advertisement undermines this sense of security and safety.

The Panel considered that by making a joke about stalking this advertisement undermines the serious nature of the issue.

The Panel considered that the advertisement depicts material which is contrary to Prevailing Community Standards on health and safety and 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 Panel upheld the complaints.

#### **THE ADVERTISER'S RESPONSE TO DETERMINATION**

The advertiser is based overseas and Ad Standards is in communication with them regarding the determination.