



**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>0405-19</b>
<b>2. Advertiser :</b>	<b>Pedestrian Council of Australia Limited</b>
<b>3. Product :</b>	<b>Community Awareness</b>
<b>4. Type of Advertisement/Media :</b>	<b>Internet - Social - Other</b>
<b>5. Date of Determination</b>	<b>11-Dec-2019</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.3 Violence  
AANA Code of Ethics\2.6 Health and Safety

### DESCRIPTION OF ADVERTISEMENT

This YouTube advertisement depicts a woman driving when a mobile phone is heard ringing. The woman reaches for the phone which appears as a gun and holds it to her temple as she answers the phone, the suggestion being that the gun is the phone.

### THE COMPLAINT

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

*The threat or use of violence or depicting suicide is unnecessarily disproportionate or appropriate.*

*It is disproportionate that one section of the community can vilify others or normalise extremism for a 'community awareness' advertisement.*

*It vilifies responsible firearms owners, licensed authorities, and mental health professionals.*

*It depicts the use of a weapon being used in an illegal manner.*

*Advertising or Marketing Communication shall not depict material contrary to Prevailing Community Standards on health and safety. Using weapons in an ad to convey safety for pedestrians should not normalise terrorism or extreme violence.*



*There is no indication PCA employed the legally required First Assistant Director (responsible for set safety) or an armourer (firearms safety officer) which should make those responsible face criminal charges.*

*The ad is misguided to have maximum controversy over relevance or substance, it does not communicate pedestrian safety but makes a threat to drivers who would not have their safety affected by pedestrians.*

*This ad is available to children, there has no no effort made to comply with advertising standards to children.*

*Furthermore this advertisement has never been acceptable to mental health professionals and their clients. This advertisement depicts suicide to sell their product or service, this is clear breach of community standards and unequivocally inappropriate for advertising since its production.*

## **THE ADVERTISER'S RESPONSE**

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

### **BACKGROUND:**

*The PCA is a registered charity under the ACNC.*

*Our primary objective is to reduce death and injury on our roads.*

*This is a Community Service Announcement.*

*It was made for the PCA by Saatchi and Saatchi over a decade ago.*

*It had a very short run on commercial TV as being a non profit organisation, we do not have funds for media and we rely on the goodwill of the TV stations to play our ads free of charge under licence agreements requiring FtA channels to play CSAs.*

*Since then, to our knowledge it has never been played on TV.*

*It is on our website through YouTube to show examples of the CSAs we have made over the last 15 years, one of which, A Killer is a Killer, Don't Drink and Drive with Chopper Reed, won a Gold Lion in Cannes and won many Australian awards even beating Not Happy Jan. We have never paid YouTube to run this CSA commercially.*

*Our ads are designed to be provocative and draw attention to the fact that there are over 1,200 deaths and around 40,000 serious injuries, which cost Australia over \$38 billion per annum.*

*Not long after its release, AdStandards contacted us and told us there had been a complaint. We provided the information requested and never heard about the complaint again.*



## *THE ADVERTISEMENT*

*Several years ago, VW released a CSA entitled Eyes on the Road.*

*<https://www.youtube.com/watch?v=R22WNkYKeo8>*

*It was designed to educate people about the lethal consequences of using hand held mobile phones (HHMPs) while driving and claimed that: "Mobile phone use is now the leading cause of death behind the wheel."*

*The NRMA recently claimed that one in eleven deaths on our roads is now attributable to this behaviour. This does not take into account the number of pedestrians killed or injured while using HHMPs (or noise cancelling earphones) when crossing roads.*

*Three years ago, we made another CSA in an attempt to educate and discourage pedestrians from using HHMPs when crossing roads (along with several press and outdoor ads) under the slogan DON'T TUNE OUT:*

*<https://youtu.be/YG-YWksnkmM>*

*It's also designed to shock.*

*The NSW Government, only last week started trialling cameras which detect HHMP behaviour while driving*

*The penalties in NSW exceed \$400 and 5 Demerit Points.*

*It's a veritable epidemic.*

*DON'T BE A DEAD RINGER aimed to shock in the same way as the GRIM REAPER shocked.*

*It was probably the most effective advertising campaign in Australia's history.*

*These ads try to achieve three objectives:*

- 1 Get attention (in an incredibly over-crowded and expensive media environment)*
- 2 Get a message across (hopefully to the appropriate audience)*
- 3 Change behaviour*

*Everyone driver knows it's illegal to use a HHMP while driving. In NSW, for instance, it must be in a cradle and you cannot even touch it.*

*So to change behaviour, you need something which will make people sit up and listen (watch).*



*We have been campaigning for nearly two decades to reduce this lethal behaviour.*

*Here's a clip from the Telegraph in January 2002, where we were campaigning to get much higher \$ penalties and Demerit Points included in the penalty for HHMP offences.*

*<https://www.walk.com.au/pedestriancouncil/page.asp?PageID=374&SiteID=1>*

*(QUOTES):*

*LETHAL WEAPON - Experts say the fines are pitiful and state governments have failed to raise awareness of the dangers.*

*"Using a hand-held mobile while driving is a lethal weapon," Pedestrian Council of Australia chairman Harold Scruby said yesterday.*

*"If you look down to dial a number or to receive a text message, you're taking your eyes off the road – it's like driving blind.*

*"We have got to pay a lot more attention to this," he said.*

*"Not one state government has brought in legislation that anywhere near addresses the problem.*

*"The penalties are so unbelievably low that many people are happy to risk the fine."  
....*

*Mr Scruby said that during holiday periods drivers lost six demerit points for not wearing seat belts, but could use a mobile and be fined only \$118.*

*"It's a joke – you could kill half a dozen people," he said. "We call on (NSW Transport Minister) Carl Scully to immediately bring in a \$500 fine and a minimum of three demerit points." ...*

*NSW Roads and Traffic Authority road safety manager John Brewer said that although people could die using mobile phones when driving, the offence was not equivalent to that of speeding or drink-driving.*

*"The number of people who die because they've been using a mobile phone is nowhere near (that of speeding), so our focus has to go on the major issues."*

*Mr Brewer said the "punishment should fit the offence" and the \$118 fine with no demerit points was sufficient penalty.*

*The point here is to show just how much community and government attitudes have changed in this period.*



*And the work we have done to get governments around Australia to understand the potential for harm and apply appropriate penalties, along with serious enforcement.*

*The raison d'être behind this CSA was and is that people who flout the law with such gay abandon and use these devices while driving, clearly care nought about the other road users they might kill or maim.*

*But we believed that if we appealed to their sense of survival, they may actually care about killing themselves.*

*The claims made by the complainant are fanciful.*

*No-one would possibly believe anyone would ever behave like this.*

*To suggest even a connection with suicide is absurd. The Cambridge Dictionary defines "Suicide" as "The act of killing yourself intentionally."*

*The very essence of this ad is that if you use a HHMP while driving, your are likely to kill yourself "unintentionally".*

*And the printed message is loud and clear: DON'T BE A DEAD RINGER.*

*How on earth could that be advocating suicide?*

*It's simply a very creative way of trying to change what has become an epidemic of lethal driver behaviour.*

*Please dismiss this complaint.*

## **THE DETERMINATION**

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

The Panel considered the complainant's concerns that:

- The threat or use of violence or depicting suicide is unnecessarily disproportionate;
- The advertisement depicts the use of a weapon being used in an illegal manner;
- The advertisement vilifies responsible firearms owners, licensed authorities and mental health professionals;
- There is no indication advertiser employed safety personnel when filming advertisement;
- The advertisement is available to children.



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

The Panel first considered the concern that the advertisement vilifies responsible firearms owners, licensed authorities and mental health professionals. The Panel noted that firearm ownership and occupations are not categories under Section 2.1 of the Code and therefore could not be considered by the Panel.

The Panel considered the concern that there is no indication the advertiser employed safety personnel when filming advertisement. The Panel considered that there is no requirement for advertisements to demonstrate supporting personnel that were on site during production, and that this was not an issue under the Code and therefore could not be considered by the Panel.

The Panel considered the concern that the advertisement is available to children. Under the Children's Code, Advertising or Marketing Communications to Children means "Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product." The Panel noted that Children are defined as "...persons 14 years old or younger" and Product is defined as "...goods, services and/or facilities which are targeted toward and have principal appeal to Children." The Panel considered that an advertisement targeting mobile phone use while driving would not be considered by most members of the community to be a product that is targeted toward and have principal appeal to children. The Panel determined that the Children's Code did not apply.

The Panel considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Panel noted the complainant's concerns that the threat or use of violence or depicting suicide is unnecessarily disproportionate and that the advertisement depicts the use of a weapon being used in an illegal manner.

The Panel noted that the advertisement does not depict suicide, as the woman only cocks the gun and does not fire it. The Panel noted the call to action at the end of the advertisement which states "Don't be a dead ringer".

The Panel noted that this advertisement was broadcast only on the advertiser's YouTube page.

The Panel noted that many community awareness advertisements, particularly those relating to road safety, depict material that would breach the law in order to demonstrate the effect that such behaviour can have. The Panel considered that the metaphor of the advertisement is clear, and noted that the advertisement is targeted toward those who use mobile phones while driving with a view to highlighting the dangers of such use, by likening it to suicide. The Panel noted that whilst this may be confronting and alarming to viewers, including children, the community message



being delivered in the advertisement was extremely important and that the target audience for this advertisement – those accessing the advertiser’s YouTube page - would relate to the advertisement.

The Panel considered that the important community message being delivered in the advertisement was a critical message that justified the use of an image that would grab the attention of the viewer and would lead to an increased awareness and consideration of the serious issue. The Panel considered that although the imagery was confronting, it did not feature gore or depict acts of violence and in the context of the advertisement as a whole, did not condone suicide.

In the Panel’s view the overall impact of the advertisement is confronting and depicting a gun held to a person’s head is a suggestion of violence. However the Panel considered that the images are in the context of a clear call to action not to use mobile phones while driving and that this important public safety message justifies the confronting image.

The Panel determined that the advertisement did not breach Section 2.3 of the Code.

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 noted significant community concern about suicide and depictions of suicide including the possibility that such images might be understood by some people to condone or encourage suicide. The Panel noted that assessing the impact of this advertisement on vulnerable people was not within its expertise.

The Panel noted that its role was to consider whether the substantive images being shown in the advertisement are themselves contrary to prevailing community standards on health and safety. The Panel considered that the analogy of using a mobile phone being akin to suicide was clearly presented as undesirable behaviour and that most people would consider this content as a metaphor and not as a depiction of material that is contrary to prevailing community standards on health or safety.

The Panel considered that the advertisement did not breach Section 2.6 of the Code.

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