



**ADVERTISING  
STANDARDS  
BUREAU**

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## Case Report

<b>1</b>	<b>Case Number</b>	<b>0436/13</b>
<b>2</b>	<b>Advertiser</b>	<b>Subway Franchisee Advertising Fund</b>
<b>3</b>	<b>Product</b>	<b>Food / Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>15/01/2014</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.6 - Health and Safety Unsafe behaviour

### DESCRIPTION OF THE ADVERTISEMENT

The ad opens at the beach with a guy running uncomfortably on the hot sand with bags of SUBWAY® sandwiches and drinks in hand. The ad then cuts to a boyfriend and girlfriend sitting on beach towels. Voice over says “SUBWAY® is made for Summer, with three delicious chicken subs.” The ad then cuts to a number of friends in and around a backyard pool.

From here the ad moves to two tradies in work gear, walking into a SUBWAY® restaurant, being greeted by the Sandwich Artist™, and placing an order. Voice over says “Made just the way you say, with whatever salads you want.”

We then see all three chicken subs presented on wooden slats, with the voice over “Back by popular demand, there’s Three Pepper Chicken, coated in lightly peppered breadcrumbs, Zesty Lemon & Herb Chicken, and Golden crumbed Chicken Schnitzel.”

From here you see a Ute tray, which the two tradies sit on, holding their well-earned chicken subs up to camera. Voice over reads: “Summer has never tasted so good!”

The ad ends by cutting back to the opening beach scene and male talent, with three mates enjoying their subs. We see they have buried one of their mates up to his neck in sand. They tease him with his sub. One of the guys holds up his sub to camera. Voice over in this final section of the ad reads “Hurry! Grab YOUR chicken sub today. SUBWAY®. Made for Summer.”

### THE COMPLAINT

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

*I object to the image of the young man buried in the sand as this has proven to be a fatal and dangerous thing to do. This ad makes me feel anxious and may encourage others to copy, especially children. This is how I portray the ad.*

*One scene shows a teen buried up to his neck in sand, while being taunted by another with a Subway roll, which he is unable to reach.*

*I am concerned that children and teenagers may emulate this scene, that is, bury someone up to their neck in sand, which can cause death by hypoxia / suffocation.*

*I think it is irresponsible at the end of the ad to show a young man buried up to his neck in sand. This is a dangerous activity and should not be portrayed as a fun thing to do.*

## **THE ADVERTISER'S RESPONSE**

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

*We refer to your letters regarding complaints received from members of the public concerning the Subway "Summer of Chicken Subs" TVC. The concerns raised by the complainants is that the advertisement " is irresponsible....to show a young man buried up to his neck in sand. This is a dangerous activity and should not be portrayed as a fun thing to do." and gives rise to "safety concerns".*

*Thank you for the opportunity to comment. We have considered section 2 of the Advertiser Code of Ethics (the "Code").*

*We respectfully deny the complaints pursuant to provision 2.6 (health and safety - unsafe behaviour) of the Code and assert that the advertisement is not in breach of this provision or any other provision of the Code.*

*We refer to the complainant's specific allegation that "it is irresponsible at the end of the ad to show a young man buried up to his neck in sand. This is a dangerous activity and should not be portrayed as a fun thing to do". The advertisement is directed to adults and is not directed to children. Playfully burying someone in sand is a classic activity that audiences would instantly recognise as being synonymous with Australian summers at the beach and is not an act contrary to prevailing community standards on health or safety nor is it illegal. The scene simply reflects a fun summer day with a cheeky group of mates who know each other and are having playful banter between themselves at the beach, with no indications of bullying or discriminatory behaviour being present in the scene. In respect of the character depicted as buried in the sand, we took great care to ensure that he was depicted at all times as not being alone in the scene nor shown to be in distress or struggling; rather he is surrounded by friends and shown to be laughing and shaking his head in playful faux-frustration and not being able to immediately consume his SUBWAY® sub. The character is also shown to be buried in very soft sand at a safe distance from the shore. There are reeds and greenery behind the group to show they are high up on the sand dunes and no waves or ocean in the vicinity; rather the ocean is shown some distance away. The scene is not depicting the character in any danger and does not suggest any safety concerns present. If anything, scene implies that the character voluntarily allowed his friends to bury him in the sand as part of the fun they were having at the beach.*

*On the basis of the above, while we welcome and support the right of individuals to raise concerns about advertising through the ASB, we respectfully submit that the complaints should be dismissed, on the basis that the advertisement is not in breach of provision 2.6, or*

*any other provision, of the Code. We look forward to the ASB confirming that it shares our view of the matter in dismissing these complaints.*

## **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 shows a person buried in sand which is dangerous and that teenagers could be encouraged to copy this unsafe behaviour.

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 depicts various scenes consistent with summer time activities and that one scene depicts a young man buried to his neck in sand.

The Board noted the complainants’ concerns that it is dangerous to be buried in sand. The Board noted that whilst there have been instances of people getting in to trouble whilst tunnelling in sand, in the Board’s view burying someone up to their neck in sand is common beach behaviour which is unlikely to lead to sand asphyxia due to the head being free from sand.

The Board noted that the scene featuring the man buried in sand is very brief and considered that it does not encourage or condone unsafe behaviour on a beach.

The Board noted that the young man buried in sand looks happy and does not appear to be in distress at his situation and considered that the advertisement does not depict, condone or encourage bullying behaviour.

The Board considered that in this instance the advertisement does not depict any material contrary to Prevailing Community Standards on health and safety.

The Board determined 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 Board dismissed the complaints.

