



## Case Report

1	Case Number	0450/17
2	Advertiser	Dixon Advisory
3	Product	Finance/Investment
4	Type of Advertisement / media	Print
5	Date of Determination	25/10/2017
6	DETERMINATION	Upheld - Modified or Discontinued

### ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

### DESCRIPTION OF THE ADVERTISEMENT

The print advertisement published in an Australian newspaper contains an image which depicts a couple on a scooter. Both people are wearing helmets, although the male rider's chin strap is unfastened.

### THE COMPLAINT

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

*Whilst riding a motorcycle and wearing an approved helmet, the law states the helmet must be securely fastened, this advert has disregarded this fact and could lead to persons acting in the same manner which could in turn lead to very serious outcomes if not fatal.*

### THE ADVERTISER'S RESPONSE

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

*Section 2 of the AANA Code of Ethics:*

*Upon review of the advertisement with consideration of section 2 of the AANA Code of Ethics,*

*we believe that the only section that may apply to the advertisement is section 2.6 of the Code - Health and Safety.*

*Publication details:*

*The advertisement was published twice in The Australian newspaper, on 23 and 26 September 2017. There was no use of an advertising agency or media buyer in relation to this advertisement.*

*Response:*

*Dixon Advisory takes matters of road safety very seriously and endeavours to avoid any implicit encouragement of unsafe road behaviour in our advertising. The image was not created by Dixon Advisory and was purchased from an online stock image provider. The purpose of the advertisement was not related to the use of a motorised scooter, but in relation to the promotion of self-managed superannuation fund seminars, a service that Dixon Advisory provides.*

*The image used in the advertisement depicts a couple on a scooter. Both people are wearing helmets, although the male rider's chin strap is unfastened. The image provider has confirmed that the scooter is believed to have been stationary at the time the photo was taken and accordingly the male rider wasn't put at risk for the photoshoot. We also note that the photo was taken in Spain.*

*Nevertheless, as soon as Dixon Advisory was made aware of the concerns regarding the advertisement, we promptly removed the use of this image from all marketing materials.*

*Since the complaint, Dixon Advisory has reviewed its existing marketing review and approval process, to ensure all marketing material, including images, are reviewed in line with the AANA Code of Ethics and has provided refresher training to the marketing and compliance teams, in relation to the obligations that arise under the Code.*

## **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 concerns that the advertisement features an image of a couple on a scooter and the helmet of the man is not secured which is illegal. The Board viewed the advertisement and noted that 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 an image of a man and a woman on a scooter. The man is sitting in front of the woman and his helmet straps are not done up. The text to the side of the image is regarding superannuation seminars around the country.

The Board noted Section 270 of the Australian Road Rules (February 2012) which provides:

- (1) The rider of a motor bike that is moving, or is stationary but not parked, must:
  - (a) wear an approved motor bike helmet securely fitted and fastened on the rider's head; and
  - (b) not ride with a passenger unless the passenger complies with subrule (2).
- (2) A passenger on a motor bike that is moving, or is stationary but not parked, must wear an approved motor bike helmet securely fitted and fastened on the passenger's head.

The Board noted that it had upheld an advertisement for Lebara mobile (0345/16) and Brand Collective (0162/17) that showed a still picture of a couple on a bike without helmets.

Similarly in this advertisement, the Board noted that the Australian Road Rules are very clear that a helmet must be worn and securely fastened by both the driver and any passenger.

The Board considered that regardless of the specific location of the bicycle it is within the generally accepted standard of health and safety for scooter riders to wear approved and fastened safety helmets.

The Board noted that the couple are on a road however it is not completely possible to tell if they are in motion or not. The Board noted the advertiser's response that the scooter is stationary.

The Board noted that in addition to the road rules, the community standards are very clear on the issue of health and safety whilst riding a motorbike, scooter or bicycle and considered that a depiction of an adult riding a bicycle without a helmet secured is a depiction which is in breach of these community standards.

In the Board's view the advertisement did breach the Australian Road Rules with regards to the wearing of helmets while on a scooter and noted that those road rules are the prevailing community standard on the safe riding of scooters.

The Board noted that the advertiser has confirmed that the advertisement has been removed from all marketing materials.

Based on the above, in the Board's view the advertisement does depict material contrary to Prevailing Community Standards on health and safety and that it did breach Section 2.6 of the Code.

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

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

Dixon Advisory reiterates that it takes matters of road safety very seriously. As outlined in our initial response, Dixon Advisory has already removed the use of the image in question from all marketing materials.

