



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0472/12</b>
<b>2</b>	<b>Advertiser</b>	<b>AAMI</b>
<b>3</b>	<b>Product</b>	<b>Insurance</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>12/12/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.6 - Health and Safety Unsafe behaviour

### DESCRIPTION OF THE ADVERTISEMENT

The advertisement is for the AAMI Claim Assist App and depicts the protagonist (Rhonda) who has returned from holiday in Bali. She is picked up by her friend and they discuss Rhonda's holiday. Whilst waiting at a set of lights, Kate is rear ended by a fruit truck. Kate then uses her App to capture the details of the incident.

### THE COMPLAINT

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

*For an insurance company, especially as this refers to car insurance, the driver of the vehicle spends a good deal of time looking at her passenger and not looking at the road ahead. Whether or not this action causes the accident in the ad is irrelevant. A car insurance company should not be encouraging and condoning unsafe driving practices. If gives the impression one can look at and talk casually to the passenger about a holiday affair, oops have an accident.. get out.. take a photo with a phone, while continuing the conversation.. and everything is alright. Motor vehicle accidents can be horrific, bloody, fatal events that cause much suffering for many people. This ad trivialises this in poor taste. Take note of time driver looking to passenger.*

*I am offended by the very first line of the ad "Did you get lucky?". This is a blatant sexual innuendo. I don't feel that this is necessary in any way to portray the benefits of AAMI insurance. I can't imagine how parents must feel when their child asks what this means, when they are trying to watch a family movie "The Mask". I find this unnecessary and on the whole offensive.*

## **THE ADVERTISER'S RESPONSE**

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

*AAMI's detailed response to the complaints*

*We have carefully reviewed the submissions of both complainants and provide our detailed responses below.*

*The complainant has expressed concern as to the portrayal of the driver, Kate, in the Advertisements. Specifically, the time durations in which Kate is seen looking at Rhonda, and ostensibly not on the roadway in front of her vehicle.*

*AAMI has reviewed both the 30 second and 45 second versions of the Advertisements, and does not accept that Kate's vision is unreasonably off the roadway. Rather, Kate can be clearly seen shifting her line of sight between the roadway and Rhonda, on a number of occasions, within each Advertisement. AAMI confirms that the conduct of a conversation, in and of itself, between a driver and front seat passenger is not prohibited by Australian road laws. AAMI submits that within the Advertisements Kate is not distracted as she continues to drive her vehicle.*

*Relevantly, the stylised accident which features at the end of the Advertisement is clearly caused by the light truck which impacts the rear of Kate's car. A clear separation can be seen from Kate's car to the dark-coloured sedan in front, with no frontal damage to Kate's car. It is therefore evident to the viewer that Kate's actions in no way caused or contributed to the causation of the accident. Indeed, whilst not depicted, it is clear that Kate must have come to a stop behind the stationary dark-coloured sedan in front of her, prior to the impact of the truck behind her.*

*AAMI submits that the Advertisement is designed to show that minor car accidents can and do happen to Australian drivers. AAMI acknowledges that a car accident is a stress causing event, and does acknowledge the complainant's comments in relation to the suffering road trauma causes both vehicle users and pedestrians on Australian roads. The Advertisement is not in any way intended to dismiss that real-world trauma, however the characters and events are depicted in a light-hearted manner given that:*

- The accident is minor in nature, given the vehicle types involved;*
- None of the participants suffers any injury; and*
- The main visual aftereffects of the accident are the dislodged watermelons from the fruit carrying truck.*

*The Advertisement focuses on explaining the utility of the AAMI Claim Assist App, rather than the causation or attribution of blame for the collision itself. Accordingly, the Advertisement was not designed to portray an entirely realistic driving scenario – for example it is most unlikely that a pallet of watermelons would be carried by an open tray truck in the manner portrayed.*

*AAMI has additionally reviewed the Voluntary Code of Practice for Motor Vehicle Advertising, insofar as it relates to this Advertisement, given that AAMI is not advertising a*

*motor vehicle. Relevantly, AAMI does not accept that the Advertisement depicts, encourages or condones dangerous, illegal, aggressive or reckless driving. It also does not depict excessive speed, acceleration or handling capabilities of a vehicle.*

*As a national insurer, and provider of Compulsory Third Party (CTP) insurance in both NSW and QLD, AAMI's staff deal daily with the consequences of serious car accidents. They do so in a fair and compassionate manner. Knowing the first-hand effects of road trauma, AAMI has been committed to road safety and driver skills training for over 30 years. Since 1982 it has conducted its AAMI Skilled Driver Program, designed to teach 18-25 year old drivers real-world car handling. The one day course, today provided in each capital city, teaches young drivers about how crashes occur, and how they can be avoided. The Course is free for eligible AAMI policyholders, including the children and grandchildren of our comprehensive car insurance customers. To date, almost 100,000 participants have completed the Course. AAMI also issues annual driver crash reports, which compile relevant national road accident statistics and analyse and behaviours leading to accidents and their social costs. Please refer to the 2012 AAMI Crash Index here:*

*<http://www.aami.com.au/company-information/news-centre/special-reports>*

*AAMI does not accept that the stylised depiction of a low speed accident, caused only by the vehicle behind the subject driver, should be regarded as trivialising road safety. Nor does AAMI accept that prevailing community standards, related to the driving of passenger vehicles, have been contravened by its Advertisement.*

*Accordingly, AAMI submits that the Advertisement did not contravene Section 2.6 of the AANA Advertiser Code of Ethics.*

*The complainant has expressed concern about the use of the phrase "Did you get lucky?", as asked by Kate of Rhonda after she has returned from her Bali holiday. The nature of Rhonda's holiday was the subject of two earlier AAMI television commercials, which depicted her relaxing by the seaside. In the most recent commercial, leading up to the Advertisement, Rhonda is depicted as having a somewhat flirtatious conversation with her Balinese waiter, Ketut. AAMI notes that this broader advertising campaign has been very positively received by the Australian public, with a high level of positive feedback on AAMI's facebook page (we invite you to view posts at [www.facebook.com/aami](http://www.facebook.com/aami)) as well as highly visited unauthorised facebook pages, which viewers have built and compiled to discuss the developing relationship between Rhonda and Ketut.*

*In reviewing the Advertisement, AAMI acknowledges that the statement "Did you get lucky?" will be understood by adults and likely many adolescents as querying whether Rhonda found some type of romance on her holiday. We submit this is a legitimate question to be posed by a close friend, which Kate is, given she's picked Rhonda up from the airport and is keenly asking her about her travels. Most viewers of the Advertisement are likely to already be familiar with Rhonda's character, and would already be aware that she travelled to Bali by herself, so the contemplation of some type of holiday romance is not far-fetched in our view. The Advertisement received a CAD classification of W, meaning it is permitted to screen at any broadcasting time except for designated "C" and "P" periods. The Advertisement does not contain any content of a particularly intimate nature, as that term is referred to in the 2010 Commercial Television Industry Code of Practice. It also does not in any way refer to or depict nudity in a sexual context, nor contain any depiction of any sexual act. AAMI submits that Kate's question to Rhonda is no more than an innocuous reference to romantic behaviour. The stylised dream sequence, depicted immediately after Kate's question, then shows Rhonda's wishful account of her holiday, with no more than imagery of an embrace, a shared pool-side drink and Ketut and Rhonda leaning in to kiss for the first time. The sequence is then deliberately cut short and remains incomplete, as the accident in the 'real world' then takes place.*

*AAMI accepts that younger children, who may be watching television during a W rated commercial sequence, may query Kate's question to Rhonda. However, AAMI does not accept that the scripting and imagery within its Advertisement can fairly be regarded as offensive to its intended audience. We note that the complainant viewed the Advertisement during a evening screening of the movie The Mask on channel GO!. We submit that this PG rated movie would reasonably require adult guidance, and that guidance could fairly extend to providing an explanation as to the meaning of Kate's question.*

*AAMI posits that the term "Did you get lucky?" is broadly akin to other commonly used double-meaning expressions and imagery, such as "the birds and the bees" or a depiction of a stork delivering a baby to new parents. Each of these may for example cause a child to question "where do babies really come from?" or ask a similarly 'challenging' question, yet for many years the later imagery has been routinely depicted in television, including in animated C-rating cartoons. Furthermore, the term "Did you get lucky?" and the related term "Feeling lucky?" have to AAMI's knowledge long been used in PG-rated television, such that they should not cause concern to an appropriate PG audience. The term is not offensive or obscene, and in our view any sexual-based discourse between Rhonda and Ketut is depicted within the Advertisement with sensitivity to its designated audience and audience rating.*

*Accordingly, AAMI submits that the Advertisement did not contravene Section 2.4 of the AANA Advertiser Code of Ethics.*

## **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 features an inappropriate reference to sexual success which is not appropriate for viewing by children, and depicts unsafe driving.

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

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience".

The Board noted that this advertisement is the latest in a series featuring the character, Rhonda, who has now returned from her holiday and has been collected from the airport by her friend.

The Board noted that Rhonda's friend asks her if she "got lucky" and that the complainant believes this is blatant sexual innuendo which is not appropriate for children to hear.

The Board considered that while "get lucky" is clearly intended to refer to whether or not Rhonda had any romantic success on her holiday, the innuendo is not necessarily a sexual reference.

On this basis the Board determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and that it did not breach section 2.4 of the Code.

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 the complainant’s concerns that the driver of the car spends more time looking at her passenger than at the road. The Board noted that at the time of the accident the driver is looking at the road and considered that it is relevant to the product advertised (car insurance) to show a car accident. The Board considered that the advertisement did not depict unsafe driving.

The Board determined that the advertisement did not depict material which would be in breach of Section 2.6 of the Code.

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