



# Case Report

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|----------|--------------------------------------|--------------------------|
| <b>1</b> | <b>Case Number</b>                   | <b>0565/16</b>           |
| <b>2</b> | <b>Advertiser</b>                    | <b>Chemist Warehouse</b> |
| <b>3</b> | <b>Product</b>                       | <b>Retail</b>            |
| <b>4</b> | <b>Type of Advertisement / media</b> | <b>TV - Free to air</b>  |
| <b>5</b> | <b>Date of Determination</b>         | <b>18/01/2017</b>        |
| <b>6</b> | <b>DETERMINATION</b>                 | <b>Dismissed</b>         |

## ISSUES RAISED

- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a man on a worksite receiving a reminder on his phone to take some tablets. As the man bends down to take the tablets from his bag, a large object swings over his head, just missing him. A male voice over says, "Another life saved with the Chemist Warehouse app"

## THE COMPLAINT

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

*The advertisement discredits the health and safety of a modern Australian worksite. By using a phone on an apparently dangerous site, the worker is saved by the use of the app. It attempts to encourage the use of phone on sites, even though that is clearly dangerous practice. Workplace health and safety is not something to joke about and should not be presented as a flippant subject in advertising.*

## THE ADVERTISER'S RESPONSE

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

*The advertisement is intended to be playful and light hearted, it shows a tradesperson on a work site who in response to an app alert on his mobile phone bends down to take his medication and whilst bent over avoids being struck by two barrels. The advertisement is delightfully tongue in cheek and in no way intended to promote unsafe work practices nor to suggest Australian work sites are unto themselves unsafe places. To infer that the advertisement is intended to promote the use of mobile phones on worksites or in any other way promote unsafe work practice is an entirely unreasonable and plainly misplaced conclusion to draw. The overwhelming feedback CW has received in regards to the advertisement is glowingly positive with consumers excited that a company has crated a app that will assist with their medication compliance and as a direct result improve their health and well-being. Other than this complaint received from your Bureau none of the many comments of feedback have reached similar misguided conclusions as put forward by this complainant.*

*In response to the raised potential breach of Section 2 of the code;*

- *There is nothing in the advertisement that is sexually explicit*
- *There is no nudity nor sex in the advertisement.*
- *Nothing in the advertisement is exploitative nor degrading.*
- *The advertisement is not discriminatory nor vilifying of any member of the community.*
- *None of the language could be deemed offensive.*
- *Chemist Warehouse contend that no reasonable person would conclude that the advertisement promotes unsafe work practices or in any way constitutes an endorsement or encouragement toward any unsafe practices.*

*In short Chemist Warehouse contend that any reasonable person could not infer that the advertisement is encouraging unsafe work practices or suggesting Australian worksite are inherently unsafe. The ad is satirical in nature and intended to capture the audience's attention and inform them about a free app available for download that is designed to help them better manage their health...and yes, potentially to save lives!*

*To deem this advertisement complaint worthy is to almost entirely limit humour in marketing. Chemist Warehouse contend that is clearly not a path the Standard Berate should take, nor one the Australian population at large would like to se them pursue.*

*We will gladly provide the Bureau with further detail as and when required, though given the nature of the advertisement and the nature of the complaint we would not expect that anything more is required to enable the Bureau to dismiss the complaint upon review.*

## **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 encourages the use of mobile phones on worksites which is contrary to health and safety.

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 this television advertisement depicts a man bending down to check an alert on his phone just as a large object swings overhead, narrowly missing hitting him.

The Board noted that the large object that narrowly misses the man comes from nowhere and is not seen again and considered that the scenario is clearly farcical and unrealistic. The Board acknowledged that workplace health and safety is a very serious issue but considered that in this instance the advertisement did not undermine workplace health and safety and in the Board’s view it is extremely unlikely to encourage tradesmen or other workers to use their mobile phones or allow themselves to become distracted when on a work site.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards.

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 complaint.