



## CASE REPORT

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| 1. Complaint reference number | 257/09   |
| 2. Advertiser                 | Panasonic  |
| 3. Product                    | Leisure & Sport  |
| 4. Type of advertisement      | TV   |
| 5. Nature of complaint        | Health and safety – section 2.6<br>Other - Causes alarm and distress |
| 6. Date of determination      | Wednesday, 8 July 2009   |
| 7. DETERMINATION              | Dismissed  |

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for the Panasonic Lumix camera shows a mountain climber scaling some rugged peaks while photographing himself and the surrounding environment. We then cut to two SES people looking at the photos that the climber has taken while the climber lies inert at their feet, obviously having fallen from a great height. A superscript says "the tough new Lumix". We see a shot of the camera with the words "HD video, 12 mega pixels, waterproof" underneath. The last graphic on a black background shows "Built-in genius, Panasonic, [Panasonic.com.au/lumix](http://Panasonic.com.au/lumix)".

## THE COMPLAINT

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

*It is distressing for viewers, particularly children to think that paramedics would disregard another human in need just to marvel that the camera is still intact from the climbers fall. This also detracts from valuable job that paramedics perform under difficult conditions.*

*On a personal level, I knew someone who died while taking photos and fell down a mountain. His body was not found for well over a year. On a more general note, this is tasteless in the extreme. If they are trying to portray paramedics as callous, they succeed. If they are trying to promote photography as a hobby, they fail. If they are trying to be funny, they fail. What they do achieve is a heartless, tasteless, offensive and cruel portrayal of what Panasonic stand for.*

*The ad depicts a wonderful mountaineering holiday being reviewed on a Lumix camera. The viewers are somewhat impressed by the rugged scenery and the skills of the mountaineer. The camera zooms out to show emergency rescue personnel as the viewers, with the mountaineer dead in a crumpled heap at their feet. The implication is that a Lumix camera is very tough and survived a fall which killed it's owner.*

*Shock-value advertising in such a flippant way is tacky, over the top and un-acceptable in my view. I agree that sometimes this type of advertising is critical in getting across a message of safety or health (e.g. alcohol related deaths and injuries, speeding ads., etc.) However to advertise a leisure product in this way is insensitive. I am a thick-skinned person, and have never before complained about an advertisement, yet this ad drew my immediate protest. I believe that this ad would come under Section 2 of the AANA Code of Ethics. However, if I am wrong, please point me in the right direction to lodge a complaint with another agency.*

*It's highly offensive, to use a tragic event as a man falling to his death to promote a camera, or any product for that matter. It is also offensive to the Paramedics, to suggest that they would stand around looking through the man's camera, particularly as his corpse is fresh on the ground next to them. I can't believe that this actually was produced, let alone given the go ahead to screen on daytime, weekend television. Disgraceful.*

## THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

*We believe that the consistent theme amongst the Complainants is that they form the opinion that the man lying on the ground appears to be 'dead'. As a result of this perception by the Complainants of the advertisement they find the pictures "inappropriate, in poor taste, distressing and offensive".*

*The purpose of the advertisement was indeed not to show a 'dead' person. The advertisement was designed to show a person lying on the ground who was indeed alive and who was being cared for by appropriately qualified medical persons that would normally attend to such incidents. This was supposed to be evident by the fact that (a) the persons attending were indeed Paramedics, and (2) the person was groaning to the Paramedics in a low but audible sound which indicated that he was indeed aware that they were attending to him. Unfortunately this may not be evident to the complainants due to the fact that by the time they viewed a significant part of this advertisement they may have already formed the opinion that the man was 'dead'.*

*The script for the advertisement, which is supplied, demonstrates that our intention was never to show a person in the manner described by the complainants nor to portray the Paramedics in a manner which would lead viewers to conclude that they were disrespectful to the person on the ground or to portray them acting in a manner which would be other than expected. Panasonic would not in any circumstance seek to utilise advertisements which have scenes depicting persons who are deceased. While the uttering of the sounds by the person on the ground in the advertisement can be heard, it is likely that such sounds may have been unheard in the living rooms or places where consumers and the complainants viewed the advertisement or were not recognised for the reason already mentioned. Further, we believe that the sounds of the person lying on the ground may also have been unintentionally not acknowledged by the Complainants when viewing the advertisement as those sounds may have been overlaid, from the Complainants perspective, by the focus on the actions/words in the advertisement of the Paramedics.*

*The Paramedics were intending to address the person on the ground, ie by viewing the manner in which the person arrived at that location through the camera; they were not indeed 'ignoring' the person - the basis of them viewing the camera was to determine the potential nature of the person's injuries which would be formed by playing back the circumstances preceding that person's current position on the ground. The fact that the camera survived the incident contributes to the ability of the Paramedics to assess the nature of how the person came to be in that position and their likely treatment of that person.*

*We believe that our assessment of the advertisement is equally as plausible given the context of the advertisement. The Complainants have chosen to take an opposing view which led them to express their view in the words chosen by them. 3.2 Application of Advertisement to Section 2 of the Code Panasonic ceased the advertisement on the 28 th May 2009.*

*We have viewed section 2 of the AANA Advertiser Code of Ethics (including the applicable incorporation of other sections which includes Advertising and Marketing Communications to Children). The outcome of that review is as follows:*

*a. We believe that the advertisement in question does not contravene the Code of advertising to Children, and s2.4 of the AANA Code of Ethics as it is not a product which would normally be purchased by a child.*

*b. We believe that the advertisement as it was intended does not contravene s2 of the AANA Code of Ethics, but specifically s2.6 which states that "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety"*

*c. We believe that the advertisement does not contravene s2.6 for the following reasons:*

*(i) the advertisement does not depict a deceased person (based upon the script) as the person does make actual sounds on the ground as depicted in the advertisement;*

*(ii) the advertisement does not depict circumstances where the Paramedics are not attending to the person on the ground for the reasons already stated;*

*(iii) the advertisement does depict Paramedics attending to an injured person which is and would be in line with the expectations of community standards given the circumstances*

*depicted in the story; and*

*(iv) the advertisement viewed as a whole (not particular parts or selected portions in isolation) in its intended context does not in itself lead to a conclusion that would suggest that the advertisement is wholly "inappropriate, offensive, in poor taste or distressing".*

*Bearing in mind these points Panasonic does not believe that the advertisement leads to a conclusion that it depicts a matter which would otherwise be contrary to prevailing community standards on health and safety.*

*Despite these factors, Panasonic withdrew the advertisement. A revised advertisement has been completed in which the ending has been changed to ensure that there is clarity over the intention of the message that is conveyed. The revised advertisement is included as an attachment (Lumix Climber TVC Revised. m4v).*

*Panasonic has in place an internal compliance program which considers amongst other matters the application of the AANA Advertising Code of Ethics. Panasonic will continue to assess each advertisement in accordance with the Code. In order to further strengthen the commitment to the Code, Panasonic will be undertaking a broader internal education and*

*compliance programme to ensure that all personnel involved in the process of preparing and approving advertisements are aware of the specific aspects of the Code and the likely perceptions of viewers.*

*We are acutely aware of the importance of assessing feedback from viewers and consumers. The fact that Panasonic revised the advertisement (the new advertisement commenced from 30 May 2009), on a voluntary basis illustrates that Panasonic is acutely aware of the responsibilities to the community and its adherence to 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 complainants concerns that the advertisement depicts emergency rescue personal or paramedics in a negative manner and that the suggestion that the camera survives the fall while its owner doesn't is callous.

The Board viewed the advertisement. The Board noted that many of the complaints concerned the depiction of the victim as 'dead' and that the actions of the paramedics were inappropriate (looking at the camera not caring for the victim). The Board considered that whether or not the victim is depicted as dead or injured is irrelevant - as in any real situation the actions of paramedics would always be to put the victim first.

The Board considered that most people would not see the advertisement as genuinely suggesting that paramedics would behave in this manner or that the care and concern for the victim was not the paramount consideration in such a situation. The Board considered that most people would view the advertisement as intending to be humorous, and would consider that it is humorous, albeit a form of black humour.

The Board considered that the advertisement, while likely to be considered tasteless by some in the community, did not vilify paramedics and did not breach section 2.1 of the Code.

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