



## CASE REPORT

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| 1. Complaint reference number | 460/08  |
| 2. Advertiser                 | Ultra Company   |
| 3. Product                    | Mobile Phone/SMS  |
| 4. Type of advertisement      | TV  |
| 5. Nature of complaint        | Violence Domestic violence – section 2.2<br>Health and safety – section 2.6 |
| 6. Date of determination      | Wednesday, 10 December 2008   |
| 7. DETERMINATION              | Dismissed   |

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement from Ultra Company for its Partner Tracker mobile phone service opens showing a satellite image of Australia. A voice over asks, "Ever wondered what your lover is really doing when you're not around?". It then suggests to try the new partner tracker to locate them instantly. The satellite image also zooms in showing suburban streets. The advertisement ends with the voice over reading the number to text to access the service. The number is also shown on the screen.

## THE COMPLAINT

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

*In recent weeks I have been subjected to an advertising campaign, usually late at night, but now during the day also, regarding a partner tracking service available to mobile phone users. I feel that this contravenes a person's right to privacy, and in extreme circumstances, could initiate episodes of domestic violence. I also feel that this could be seen as a form of stalking. What concerns me most regarding this matter though, is that recently this advertisement has been played (on commercial channels naturally) during after school hours. With the proliferation of mobile phone use amongst teenagers and sub-teens, I think this sends a dangerous message to young people, who already think that being constantly available to their peers at the end of a phone line is ideal or a measure of their popularity, that it is okay to keep track of their peers at any time whether this attention is welcome or not. I would hope that you will investigate this matter and take appropriate action by having this type of advertisement terminated immediately.*

*Irrespective of whether the technology works, this sort of ad is highly inappropriate. Many victims of interpersonal violence fear leaving their partners precisely because they believe their partners will find ways to "track" them. This ad endorses such stalking tactics and it minimises and mocks the experiences of domestic violence victims.*

*The connotations in the ad indicate untrusted partners can be located and their movements tracked. In the event this were true, it would constitute invasion of privacy and/or stalking activities which are criminal offences. The ad normalises criminal behaviour as direct references are made to "checking up on your partner", setting an unhealthy example by promoting restrictions on intimate partner freedom by condoning controlling behaviour.*

*This ad deliberately sets up the product as something for spying on other people. The music, the images and the spoken message all clearly focus in on this. This product is at best an invasion of privacy and encouragement of illegal monitoring of an Australian Citizen. At worst this ad is a malicious and morally reprehensible play on the young, angry, jealous and potentially violent male who no longer trusts his partner. They are playing with fire - encouraging covert/stalking like behaviour.*

*This product could place at risk anyone who is trying to avoid a violent partner or someone who tends to stalk others. (I've known a few of these stalker types, - my daughter had an unpleasant experience with one a few years ago). Although this company states on their website that it is necessary for people to agree to be tracked, - they also give examples of how people can get around this legal requirement by getting hold of their mobile phones when their target person is asleep etc. I've tried to get a government authority to look at this product but they all decide it is in the jurisdiction of some other department. The last one I contacted - the Privacy Commission suggested I contact you. This product seems an example of modern technology being ahead of government legislation. Our legislators probably won't do anything until people start getting killed. I believe that this advertisement should be banned to try to minimise the damage that could be done with this product.*

## **THE ADVERTISER'S RESPONSE**

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

*The partner tracker software is a simulation product; the footage shown on screen is what the customer will actually see once they download this software. They are unable to track real people. It is stated under the product that it is simulation software.*

*It is a fun application that was derived from a hugely popular global online application that worked in the same way. A huge number of mobile products and services are derived from those having success online. Real partner tracking software can locate actual locations via mobile numbers but it only works with the consent of the person who is being tracked, if they do not give their consent to revealing their location, the software does not work.*

*Regarding the first complaint, that this software is an invasion of privacy, is not correct as this is simulation software and for entertainment purposes.*

*Also the first and second complaints noted that this promotes criminal behaviour is not correct as there are a huge number of reasons a person would like to track someone and this product was created in the name of entertainment and fun. Tracking people is also very much a part of popular culture and does not suggest criminal activity. For instance, many girls magazines promote the checking out of guys, such as in Dolly "What does his MySpace page say about him" and in Cosmo "Google Earthing - What you can learn about him via satellite - Forget drive bys, the latest way to suss out a potential boyfriend is out of this world". The Teracomm Partner Tracker software works very much in the same way, just for entertainment.*

*Many technical developments such as MySpace, Facebook and Google Earth could be interpreted by anyone to be potentially used in a criminal way, to track people, but they are for fun, information and entertainment.*

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board considered the application of Section 2.6 of the Code, relating to prevailing community standards of health and safety and Section 2.2, relating to violence.

The Board noted that the complainants' concerns seemed more directed towards the product itself, rather than the advertisement. The Board noted the advertiser response that the software is a simulation product and that the advertisement clearly states "This is simulation software".

The Board considered the advertisement of this simulated or "gimmick" software product with the clear statement that it was simulation software was not contrary to prevailing community standards of safety and therefore found no breach of Section 2.6 of the Code. The Board also determined that the advertisement did not depict or encourage domestic violence or any other form of violence as understood by the ordinary community and therefore was not in breach of Section 2.2 of the Code.

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