



## **CASE REPORT**

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|-------------------------------|---------------------------------|
| 1. Complaint reference number | 481/09                          |
| 2. Advertiser                 | Road Safety Task Force          |
| 3. Product                    | Community Awareness             |
| 4. Type of advertisement      | TV                              |
| 5. Nature of complaint        | Health and safety – section 2.6 |
| 6. Date of determination      | Wednesday, 28 October 2009      |
| 7. DETERMINATION              | Dismissed                       |

## **DESCRIPTION OF THE ADVERTISEMENT**

This TVC depicts a police vehicle driving and the officers observing a speeding vehicle. The caption "you speed up and we'll slow you down". A woman is then seen to be driving whilst on her mobile phone. The caption says: "you make a call, we'll make a call". A man avoiding a breathalyzer "You get smart, we'll get smarter".

## **THE COMPLAINT**

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

*My objection is that the commercial quite clearly shows the lady motorist talking on her mobile phone, whilst driving, with no disclaimer that the commercial was filmed under controlled conditions, and was quite clearly filmed on a public street, amongst privately owned vehicles, during daylight hours, with no indication the driver was specifically trained, under controlled conditions or a closed street. Talking on a mobile is obviously illegal, whether being done in reality, or being depicted for the safety of motorists, and as such, should not be shown even in a road safety commercial. The other scenarios being shown on the commercial are of no consequence, as there is no clear indication that the alleged drink driver is actually under the influence, or the motorist depicted as speeding is actually speeding.*

## **THE ADVERTISER'S RESPONSE**

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

*The latest enforcement campaign, in partnership with Tasmania Police, is highlighting the fact that you will get caught for offences such as speeding, drink driving and mobile phone use along with the fact that police have both covert and overt strategies to target these offences.*

*The issue that has been referred to shows a person driving and talking on a mobile phone. She is then spotted by an undercover police officer, who radios to a uniformed officer further along the street, who then steps out and pulls her over.*

*Similar scenarios are used for drink driving, where the driver attempts to dodge a random breath testing block, only to find another around the corner.*

*This TVC is supported by press and radio.*

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code") and the Federal Chamber of Automotive Industries Code ("the FCAI Code").

The Board noted the complainant's concerns that there were road offences shown during the advertisement and no disclaimer was depicted in the advertisement.

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

The Board noted that the advertisement was a community education advertisement and not an advertisement for motor vehicles. The Board agreed that the purpose and context of the FCAI Code is a voluntary code of practice for motor vehicle advertising. The primary purpose of the FCAI Code is to provide guidance to advertisers "(advertising motor vehicles)" in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety. The Board determined that the FCAI Code did not apply to this advertisement.

The Board then considered whether the advertisement was in breach of 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*".

The Board agreed that the actions depicted in the advertisement were relevant to the community message and was not overly explicit or concerning and that most members of the community would appreciate that the message being conveyed by the advertisement was that such actions will not be tolerated and that the Police are very aware of these behaviours. The Board determined that the advertisement was not 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.