

## Case Report

1. Case Number :	0285-23
2. Advertiser :	Apple Pty Ltd
3. Product :	Telecommunications
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	30-Jan-2024
6. Decision:	Dismissed

### ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

### DESCRIPTION OF ADVERTISEMENT

This television advertisement promotes a phone and starts with a person connecting headphones to the phone. The user is then shown:

- holding the device up to snap a pic of a nearby building
- flicking through some recent images
- riding pillion on a scooter, holding her phone for directions.



### THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*Riding a scooter while on the phone*

## THE ADVERTISER'S RESPONSE

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

*The complaints flagged concerns that the video spot depicts a person riding a scooter while using an iPhone.*

*The person holding the iPhone is not driving the scooter - she is riding pillion, behind the driver. The pillion rider can be seen in the scooter's mirror wearing a brown top, glasses and a helmet and holding an iPhone showing directions on Maps (see screenshot below). The shot shows the shoulder of the driver, wearing an orange shirt, in front of the passenger. It is clear from the distance of the passenger from the scooter's mirror, the presence of the driver's shoulder in front of the passenger and the different coloured clothing that the person holding the phone is not driving the scooter. The scene complies with road safety laws in Australia.*

*The advertisement does not depict any material contrary to prevailing community standards on health and safety. We submit there is no breach of section 2.6 of the Code nor any issues of concern to which section 2 of the Code is directed. Apple takes community standards seriously in preparing and publishing all of its advertising materials and other communications in Australia and around the world.*

## THE DECISION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concerns that the advertisement depicts unsafe behaviour by showing a person using a mobile phone while riding a scooter.

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

### **Section 2.6: Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.**

The Panel noted the Practice Note to Section 2.6 which states:

*"Images of unsafe driving, bike riding without helmets or not wearing a seatbelt while driving a motor vehicle are likely to be contrary to prevailing community standards relating to health and safety irrespective of whether such depictions are for the product/service being advertised or are incidental to the product."*

The Panel noted that using a mobile phone while operating a vehicle without a hands-free setup would likely breach community standards on safety.

However, the Panel noted the advertiser's response that the woman is a passenger on a scooter and noted the scene showing a person appearing to be in front of her while she navigates using maps on the phone.

The minority of the Panel considered that this was not clear in the brief scene and considered that most viewers would interpret the advertisement as showing her in command of the vehicle.

The majority of the Panel considered that the body of the driver is clear in the scene, and considered that a passenger who is not in control of a vehicle using a phone to navigate is unlikely to breach community standards on safety.

The Panel also noted that while some states do not allow passengers on e-scooters, the vehicle pictured appears to be a scooter such as a Vespa rather than an e-scooter and therefore such rules are not applicable in this instance.

#### **Section 2.6 conclusion**

The Panel considered that the advertisement did not contain material contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

#### **Conclusion**

Finding that the advertisement did not breach any other section of the Code, the Panel dismissed the complaint.