

Case Report

1. Case Number :	0113-24
2. Advertiser :	Accent Group Limited
3. Product :	Sport and Leisure
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	1-May-2024
6. Decision:	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a woman driving in a car and using a phone. She says "Technology has really evolved. I'm on my car phone, it's so crazy right! (Text on screen: Back in the Day) Same with Skechers Today there's new Arch fit Skechers Slip-ins With step in and go technology Plus because they're arch fit, they have all day comfort. Try new arch fit Skechers Slip-ins".



THE COMPLAINT

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

Concerned about a scene which is encouraging holding and making a call on a mobile phone while driving.

THE ADVERTISER'S RESPONSE

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

Thank you for providing an opportunity to respond to the complaint against our advertisement. Accent Group Limited (Accent Group) would like to make clear that our employees, advertising agencies and brand partners such as Skechers, are acutely aware of our responsibility to the community in relation to the standard of our advertising and as such we take any complaints seriously.

Having considered this matter in detail, Accent Group believes that the advertisement does not breach the AANA Code of Ethics (Code), having regard to section 2.6 of the Code or otherwise.

The advertisement is part of a 1980s retro-inspired campaign to promote Skechers Slip-Ins with Arch Support distributed in Australia by Accent Group. The ad seeks to convey how Skechers' new Slip-Ins technology with Arch Support has improved the way we wear shoes by drawing a comparison with the way technology has improved the way we use phones with the effect that we no longer use the outdated car phone whilst driving.

The Complaint

The Complaint expresses concern "about a scene which is encouraging holding and making a call on a mobile phone while driving". We reject that this is a valid reason for concern for this advertisement for two reasons: first, the phone depicted is not a mobile phone but a historic car phone which is, to the best of our knowledge, no longer in production. For this reason, talking on a car phone is not something many people could be encouraged to do should they want to. Secondly, if the concern had been expressed alternatively more broadly as regarding holding a phone whilst driving, the purpose of the advertisement, rather than to encourage this behaviour, is to show that holding a phone whilst driving is a thing of the past thanks to improvements in phone technology, just like how improvements in Skechers' technology means wearing uncomfortable shoes are a thing of the past. Further detail of this point is discussed below under "The Code – Section 2.6".

The Code – Section 2.6

Section 2.6 of the Code prohibits depicting material contrary to Prevailing Community Standards on health and safety.

We are of the view that the advertisement does not depict material contrary to prevailing community standards. The advertisement shows a person talking into a historic car phone and in doing so, reinforces the message that holding and talking into a car phone or any phone while driving is unsafe and contrary to current community standards on health and safety.

It achieves this by depicting the presenter talking on the historic car phone in an exaggerated, silly manner that is described as a behaviour from “Back in the Day”. This is contrasted, by inference from the use of “Hands Free” on the final screen, to today’s Hand’s Free mobile phone technology to show how a benefit of technological improvements is the end of unsafe practices such as making calls on a handheld car phone. In this way, the advertisement is conveying a strong message that this practice is no longer condoned or encouraged and in doing so, presents material that is consistent with prevailing community standards.

Alternatively, if the Panel considers that the advertisement does depict material that is contrary to prevailing community standards, our view is that the manner in which the material is presented – both in the sense that it shows a historic item in a way that is exaggerated and silly making it clear that it is no longer acceptable, and through the contrast to show that a benefit of technological improvements is that it is no longer practiced – is justified to convey the message that this behaviour is outdated, negative and is not to be encouraged or condoned. Therefore, we invite the Panel to conclude that any such depiction in the advertisement is minimal and is justifiable in the context of the product advertised.

The remainder of the Code

In respect of the remainder of the Code of Ethics, the advertisement:

- does not discriminate against or vilify anyone;*
- present or portray violence;*
- does not employ sexual appeal;*
- does not include any sex, sexuality or nudity;*
- does not use strong or obscene language; and*
- is clearly distinguishable as an advertisement.*

We therefore consider that the advertisement does not breach the Code.

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 concern that the advertisement depicts someone using a phone while driving.

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 acknowledged that the use of mobile phones while driving is illegal and against road safety messaging. The Panel considered that the general community would consider driving while using a phone to be unsafe.

However, the Panel noted that the phone in the advertisement was clearly an old car-phone and not a modern mobile phone. The Panel noted that the scene showing the phone being used was clearly set in the past, which was reinforced through the use of retro clothing and the words, "back in the day".

The Panel considered that the behaviour was identified as taking place in the past, and the advertisement does not suggest that such behaviour is appropriate today.

Overall, the Panel considered the advertisement does not promote or condone the use of mobile phones while driving and was not contrary to prevailing community standards on health and safety.

Section 2.6 conclusion

The Panel found that the advertisement 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.