

<b>COMPLAINT NUMBER</b>	17/001
<b>APPEAL NUMBER</b>	17/004
<b>APPLICANT</b>	D Anton
<b>ADVERTISER</b>	AA Insurance
<b>ADVERTISEMENT</b>	AA Insurance, Television
<b>DATE</b>	27 February 2017
<b>OUTCOME</b>	Declined

## **SUMMARY**

The Complaints Board ruled on 14 February 2017 that the complaint from D Anton about the AA Insurance television advertisement was Not Upheld. The Applicant appealed the Ruling.

This application was considered by the Chairperson of the Appeal Board. She noted the Applicant's raised two issues with the Decision. The Applicant said "I draw attention to the insurer's claim that even if the car was parked illegally, there are no exclusions that say that the driver would not be covered; however, this claim is superseded by the section of the policy that covers reasonable care, ..." and "...the ad has the capacity to encourage people to park illegally in driveways and makes the practice an acceptable behaviour".

The Chairperson considered the Applicant's view but she did not consider that seeing the car parked where it is would encourage others to park near driveways. The Chairperson further noted the Complainant's interpretation of the insurance policy in relation to this type of accident but said the Advertiser clearly stated it would be covered by the advertised policy. Therefore, there was nothing in the appeal application which met any of the grounds on which an appeal could be accepted.

The Chairperson ruled the appeal application was Declined.

Please note this headnote does not form part of the Decision.

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## **CHAIRPERSON'S RULING**

The Chairperson viewed the application for appeal. She noted there were five grounds upon which an appeal was able to proceed. These were listed at Clause 6(c) of the Second Schedule of the Advertising Standards Complaints Board Complaints Procedures and were as follows:

- (i) The proper procedures have not been followed.
- (ii) There is new evidence of sufficient substance to affect the decision.

- (iii) Evidence provided to the Chairman of the Complaints Board has been misinterpreted to the extent that it has affected the decision.
- (iv) The decision is against the weight of evidence.
- (v) It is in the interests of natural justice that the matter be reheard.

The Chairperson agreed with the No Grounds ruling from the Complaints Board Chair and considered that while the Applicant may disagree with it, this is not a ground for appeal.

The Chairperson considered the advertisement showed a fleeting image of where the car is parked and she accepted the Advertiser's explanation that it is not used as a driveway and regardless, there would be no impact on policy coverage. The Chairperson noted the Complainant's interpretation of the insurance policy for this type of accident but said the Advertiser had clearly stated it would be covered by the advertised policy.

The Chairperson did not believe that seeing the car parked in that location as part of an advertisement for an insurance company would encourage others to park near driveways or illegally.

Accordingly, the Chairperson ruled there were no grounds on which the appeal could proceed and the application was declined.

**Chairman's Ruling:** Appeal application **Declined**

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## **DESCRIPTION OF ADVERTISEMENT**

The television advertisement for AA Insurance shows a man getting out of his car after a utility vehicle appears to have reversed into it. The front bumper of the man's car has been damaged and is partially detached from the car.

The car is parked outside a building which has a roller door as the entrance door. The roller door is open. There are people sitting at tables inside the building.

## **APPEAL APPLICATION FROM L BROOKS**

Thank you for sending the decision for this complaint.

I have reviewed it and also gone over the comprehensive insurance guidelines for the policy advertised and have found that the decision by the ASA is in error and I am sending this email to register a formal challenge to overturn the decision.

There are a couple of issues that warrant the overturning of the decision.

First: I draw attention to the insurer's claim that even if the car was parked illegally, there are no exclusions that say that the driver would not be covered; however, this claim is superseded by the section of the policy that covers reasonable care, which clearly states that "you or any driver of your vehicle must take reasonable reasonable care" and "Your claim will not be covered if you or any driver are reckless, grossly irresponsible or grossly negligent"(this information is on page 20 of the document) and parking in a driveway would be considered not taking reasonable care, reckless and also even grossly negligent,

especially considering it is in the road code as illegal. And while there is a cafe there now, it is still a driveway, which by legal definition is also an intersection which can also have applied that law, which would be that one cannot park in the intersection or within six metres of it. And whether an enforcement officer would apply the law or not, it irrelevant at this point as it still looks like a driveway (because technically it is) and viewers will not be looking at the premises to determine the legal status of the driveway.

Second: Principle 4: (All advertisements should be prepared with a due sense of social responsibility to consumers and to society.) should also be applied to this ad, as it has the capacity to encourage people to park illegally in driveways and makes the practice an acceptable behaviour, something our society and poor road and driving habits does not need to be encouraged. This alone is why the ad should be pulled as encouraging an illegal practice is certainly not social responsibility on any level.

All of this also still makes the ad misleading and socially irresponsible, so therefore the decision of the board to not uphold the complaint is flawed at best and they must do the responsible thing and reverse their decision promptly.

### **SUMMARY OF COMPLAINTS BOARD DECISION**

The television advertisement for AA Insurance shows a man getting out of his car after a utility vehicle appears to have reversed into it. The front bumper of the man's car has been damaged and is partially detached from the car. The car is parked outside a building which has a roller door as the entrance door. The roller door is open. There are people sitting at tables inside the building.

The Complainant said the advertisement was misleading because the car is illegally parked as it is within one metre of a driveway. The Complainant said insurance policies are rendered null and void if the policy holder has done something illegal and they would not be covered.

The Advertiser said while the entrance to the café in the building may appear to look like a driveway it was not in use as a vehicle entrance but as a pedestrian entrance to the café.

The Advertiser said if the driveway was being used as a vehicle entrance the driver in the advertisement would still be covered under their car insurance policy. Even if a driver is parked illegally there is no exclusion in their car insurance policies which would make this 'null and void'.

The Complaints Board accepted the Advertiser's explanation and ruled the advertisement was not likely to mislead or deceive consumers and had been prepared with the requisite sense of social responsibility.

Accordingly, the Complaints Board ruled the complaint was Not Upheld.