

<b>COMPLAINT NUMBER</b>	17/069
<b>COMPLAINANT</b>	D Horne
<b>ADVERTISER</b>	BP Oil NZ
<b>ADVERTISEMENT</b>	BP Oil NZ, Television
<b>DATE OF MEETING</b>	28 March 2017
<b>OUTCOME</b>	Not Upheld

## **SUMMARY**

The 30-second BP Oil television advertisement featured a man at a BP station avoiding a woman by using a BPMe app which allowed him to pay from his car.

The Complainant's concern was that every fuel-filling station has signs telling customers to switch their mobile phones off in the forecourt but the advertisement irresponsibly encouraged people to contradict the signs. The Complainant queried the difference between someone using their phone on the forecourt and doing so in their car with the window open.

The Complaints Board said the app was clear that users should not go onto the forecourt though this was shown briefly in the advertisement. The Complaints Board said the app was being used in the car and nothing in the advertisement encouraged unsafe behaviour.

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

### **[No further action required]**

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

---

## **COMPLAINTS BOARD DECISION**

The Chair directed the Complaints Board to consider the advertisement with reference to Basic Principle 4 and Rules 2 and 12 of the Code of Ethics. This required the Complaints Board to consider whether the advertisement had been prepared with a due sense of responsibility to consumers and to society and whether it contained any statement or visual presentation or created an overall impression which directly or by implication, omission, ambiguity or exaggerated claim was misleading or deceptive, was likely to deceive or mislead the consumer made false and misleading representation, abused the trust of the consumer or exploited their lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading). The Complaints Board was also required to consider whether the advertisement, unless justifiable on educational or social grounds, contained any visual presentation or any description of dangerous or illegal practices or situations which encouraged a disregard for safety.

**The Complaints Board ruled the complaint was Not Upheld.**

### **The Complaint**

The Complaints Board first considered the Complainant's concern that the advertisement was irresponsible since every filling station had signs informing customers to switch their mobile phones off on the forecourt and the advertisement encouraged people to directly contradict the signs. The Complainant said in part: "True, BP instructs everyone to keep their phone in their car. They are merely covering themselves in case of an incident. My concern is that people don't read or obey instructions and filling station staff don't want the hassle of tackling anyone on that subject. People think only of themselves and will answer their phone if it rings." The Complainant said the reason they thought the advertisement was irresponsible was because "what is the difference between someone using their phone on the forecourt and doing so in their car with the window open."

### **The Advertiser's Response**

The Complaints Board then turned to the reply from the Advertiser, BP Oil NZ. The Advertiser said customers had asked for faster and simpler ways to fuel their vehicles and the aim was to deliver that through the BPMe mobile app. The Advertiser maintained the app did not expose consumers to any additional risk if used as intended.

The Advertiser said the advertisement did not breach Rule 2, Truthful Presentation, as it accurately portrayed how the mobile app worked to pay for fuel from a car. The Advertiser said, regarding Rule 12, Safety; that the advertisement did not portray the phone being used on the forecourt and included a shot of a safety message on the app reminding customers when they are using it not to do so on the forecourt.

### **The Media's Response**

The Complaints Board then considered the response from the Commercial Approval Bureau (CAB) on behalf of the media. CAB said the BP commercial had been approved on October 21, 2016, with a "G" classification. CAB said the Complainant believed the advertisement showed unsafe behaviours as cellphones are not allowed on forecourts but cellphones were not shown being used on a forecourt in the advertisement and the Advertiser could not be held accountable for negative behaviours which did not appear in the commercial.

### **The Complaints Board Discussion**

The Complaints Board said it was made clear on the app that people using it should not go onto the forecourt although this was only shown briefly in the advertisement itself. The image on which it appeared would have to be paused to make it obvious so the Complaints Board could see why the Complainant's concerns had arisen. The Complaints Board said while filling stations had warning signs about cell phone use on the forecourt, the main safety risk seemed to be that a person using a cellphone might be hit by a vehicle. In any case the character in the advertisement was using the app in a car and there was nothing in the advertisement that encouraged unsafe behaviour. The Complaints Board noted the Advertiser was comfortable with the use of the app as demonstrated in the advertisement, and the Complaints Board saw no issue with it.

The Complaints Board ruled the website advertisement did not breach Basic Principle 4 or Rules 2 and 12 of the Code of Ethics.

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

## DESCRIPTION OF THE ADVERTISEMENT

The 30-second BP Oil television advertisement featured an elderly man in a car with his grandson, at a BP station and attempting to avoid an elderly woman, "Muriel." She is seen in an earlier scene behind a car boot sale trestle table winking at the man and holding a sign saying "Make me an offer." The man tells the boy "Muriel" is a "dreadful woman and a little too keen on your old grandpa for his liking" and to "get down in case she sees us." He then says "Hold on," takes out his cellphone and touches the BPMe app on the screen allowing him to pay from his car without being seen.

A disclaimer at the bottom of the screen said "Terms and conditions apply," gave the BPMe website address, said not all cards were eligible and only at participating sites." A voiceover said: "With the new BPMe app, now you can pay for fuel from your car." The commercial then cut to a shot of a BP forecourt with the man sliding out of the car and huddling down to put in the petrol. The green outline of a phone appeared on the left of the letters "BP" with the word "me" on the other side above the shot of the forecourt. The voiceover said "BP go your way." Trademark information appeared on the bottom of the screen.

## COMPLAINT FROM D HORNE

I think this advert is irresponsible. Every Fuel Filling Station has signs informing customers to switch their mobile phones off. No-one is to use a mobile on the forecourt. This advert is actually encouraging people to do so in a direct contradiction to the signs. True, BP instructs everyone to keep their phone in their car. They are merely covering themselves in case of an incident. My concern is that people don't read or obey instructions and Filling Station staff don't want the hassle of tackling anyone on that subject. People think only of themselves and will answer their phone if it rings. The reason I think this advert is irresponsible is because what is the difference between someone using their phone on the forecourt and doing so in their car with the window open?

## CODE OF ETHICS

**Basic Principle 4:** All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

**Rule 2 Truthful Presentation:** Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

**Rule 12 Safety:** Advertisements should not, unless justifiable on educational or social grounds, contain any visual presentation or any description of dangerous or illegal practices or situations which encourage a disregard for safety.

## RESPONSE FROM ADVERTISER: BP OIL NZ

### Basic Principle 4

You have identified the relevant sections of the ASA Code of Ethics as being Basic Principle 4 ("All advertisements should be prepared with a due sense of social responsibility to consumers and to society"), Rule 2 and Rule 12.

BP takes its responsibility to its consumers, and to the wider communities in which it operates, incredibly seriously. As part of BP's standard operating procedures it considers, among other things, the potential impacts of any project it undertakes and ensures any potential adverse impacts are avoided or mitigated. Many of our customers have been asking us for faster and simpler ways to fuel their vehicles and we aim to deliver that through the BPMe mobile app. Use of the BPMe app does not expose consumers to any additional risk, when used as it is intended.

## **Rule 2**

Rule 2 states that advertisements should not contain any statement or visual presentation that creates an overall impression which is misleading or deceptive, or is likely to deceive or mislead consumers. The ad is not in any way misleading or deceptive, or likely to deceive or mislead consumers. The ad accurately portrays how the mobile app works, to pay for fuel from your car.

## **Rule 12**

Rule 12 states that "advertisements should not, unless justifiable on educational or social grounds, contain any visual presentation or any description of dangerous or illegal practices or situations which encourage a disregard for safety."

Safety is BP's number one priority. The ad does not contain any visual presentation or any description of a dangerous or illegal practice. BP does not believe the ad shows any situation which encourages consumers to disregard safety. The ad does not portray the phone being used on the forecourt and includes a shot of one of the safety messages that appears on the app to remind the customer when they are using it not to use their phone on the forecourt, reinforcing the safety message.

In addition, we note that BP's normal policy states that phones should not be used outside of the car on the forecourt. The safety of our staff and our customers is of the utmost importance to us and the existing stringent safety measures and staff training processes and procedures we have in place will continue with the introduction of BPMe. BP staff are well trained and are constantly aware of activity on the forecourt and of the actions they are required to take in the event any hazard is identified (i.e. someone using a mobile phone on the forecourt). We are committed to ensuring that people continue to follow existing rules around not using phones outside of their car, and the advertisement does not encourage those rules to be disregarded.

## **RESPONSE FROM MEDIA: COMMERCIAL APPROVALS BUREAU**

CAB approved this BP commercial on 21/10/16 with a 'G' classification.

A complainant believes this ad shows unsafe behaviours, as cellphones are not allowed on forecourts.

The ad does not show a cellphone being used on a forecourt.

An advertiser cannot be held accountable for negative behaviours which do not appear in a commercial they have produced.

Since the advertiser and their agency have taken care to meet all applicable standards of practice, CAB does not believe this complaint should be upheld.