

Decision of the ADVERTISING REGULATORY BOARD

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| Complainant | Dirk Hanekom |
| Advertiser | Standard Bank Group Limited |
| Consumer/Competitor | Consumer |
| File reference | 2783 – Standard Bank – Dirk Hanekom |
| Outcome | Upheld |
| Date | 19 September 2023 |

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged against Standard Bank Group advertising its Achieva offering.

Description of the advertising

The commercial, which played on Spotify, begins with an electronic sounding voice, saying “In 600 metres, turn right,” in the style of a GPS device or Maps app. The voiceover then changes to a woman saying, “I can’t believe it. I am driving my first car.” The electronic voice then says, “You have arrived at your destination.” Back to the driver, who says, “And the Achieva offering made it possible for me to plan and save for a deposit for that car I’ve always wanted.”

A new, male, voiceover says, “So kickstart your firsts with Achieva. To help you bank, borrow, save, insure and get rewards. Apply for Achiever online. Standard Bank – It can be.” The usual financial services info follows.

Complaint

The Complainant said that the sound effects within the audio had a woman saying, “*In 600 metres, turn right,*” which the Complainant says sounds “*just like my GPS would say.*”

Directors: GD Schimmel (CEO) S Fakir (Chair)

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The Complainant further stated that, *“It is the same as the ads on radio that contain sounds with sirens and horns. It is distracting and dangerous, hence why I cannot listen to the radio in my car. But now these geniuses have upped their game and added sound effects that sound like GPS navigation instructions.”*

Response

Attorneys Bouwers Inc. responded on behalf of the Advertiser. It submitted, *inter alia*:

- *“The Advertisement is clearly intended to depict a person during her first car in a manner, typically, associated with the use of a vehicle. An objective assessment of the Advertisement will confirm that listeners will understand the Advertisement, accordingly.”*
- *“The above is central to a proper an objective understanding of the Advertisement and the notion that the Advertisement is “dangerous” (or “is likely to create a safety hazard”) is simply untenable.”*
- *“The Complainant was not in any manner confused and well-aware that he was listening to an advertisement and that the sounds that he was hearing were emanating from his radio and was not real-life traffic noise, nor did it emanate from his ‘GPS’.”*
- *“In the context of the Advertisement as well as against the background of the stated facts, and specifically, the fact that the Complainant was clearly not confused into believing that what he heard, was in fact, his ‘GPS Navigation system’, there can be no doubt that in the context of the Advertisement the use of the phrase ‘In 600 metres, turn right’ will not create a ‘safety hazard’, especially, taking into consideration that no driver of a vehicle will blindly follow the ‘GPS instructions’. To the extent that any driver may be confused into believing that what he/she was hearing when listening to the Advertisement is a real-life instruction from a navigation apparatus, which is strongly denied, a reasonable driver will, no doubt, interrogate the ‘instruction’ before, blindly, complying therewith.”*
- *“Furthermore, any suggestion that the imitation of the GPS navigation system will per se result in a ‘safety hazard’ is untenable, especially as drivers will, as stated above, not follow such instruction blindly, especially, when the alleged turn is to be made in 600 meters, only, which will provide any driver, possibly, confused, which the Respondent denies will happen, with sufficient time to consider the ‘instruction’ and to act as the circumstances require.”*

- *“Thus, when the Advertisement is viewed as a whole, it is difficult to understand how it can be regarded as being in breach of the Code and, specifically, is likely to create a ‘safety hazard’.”*

Application of the Code of Advertising Practice

The following clause was considered in this matter:

- Unacceptable advertising – Sounds in radio advertisements – Clause 3.6 of Section II

Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

Clause 3.6 of Section II of the Code of Advertising Practice states that: *“Advertisements must not include sounds that are likely to create a safety hazard, for example, to those listening to the radio while driving.”*

The issue before the Directorate is therefore whether the advertisement containing the audio of GPS instructions could pose a safety hazard to drivers on the road, as the Complainant has stated.

The Advertiser disagrees, for the reasons set out above.

The Directorate took into account the Advertiser’s conviction that no listener would be confused by the directions given by the GPS in the commercial, and even if they were initially confused, would have sufficient time to consider the instruction and work out that it was emanating from a commercial, rather than from their own GPS system.

The Directorate accepts that it is highly unlikely that a driver would, for example, drive into a wall or oncoming traffic as the result of the commercial. However, the Directorate is not convinced that this is sufficient. The Directorate notes that the “instruction” occurs at the beginning of the commercial – that is, before the driver has time to orientate themselves to the fact that this is, in fact, a commercial. The Directorate also notes that the way that GPS systems work, when connected to the car’s audio, is by interrupting whatever else is playing to give an instruction. It would therefore not be unheard of to have your song interrupted by the GPS system saying “in 600m turn right”.

There are many stories of people who have blindly followed erroneous GPS instructions and ended up in places they would rather not be. In advertising on audio services such as the radio or Spotify, it is always important to consider that a driver – and a South African driver in particular – has many additional demands on their attention, including non-functional traffic lights, informal traffic directors, potholes, dangerous driving from other drivers, and general personal safety concerns. Essentially, a driver who is already having to deal with all the signals and stimuli of driving, should not be subjected to filtering out additional, false, navigation-related sounds.

The risk of a driver actually taking a right turn as instructed might be small (although it remains a possibility), but rather that the process of hearing, assessing, filtering and responding to the false navigation instruction is more than they should have to do when they are driving. The Directorate fears that the cognitive burden to filter out a fictional GPS instruction competing with their own device's instructions, could pose a safety risk for a distracted driver. This is illustrated by the fact that even though the Complainant was able to work out that the directions were coming from the commercial, his concern for his own focus made him turn off Spotify – again, additional actions that were preventing him from focusing on his driving.

It is finally noted that there are many ways that the Advertiser could achieve the same message without using this particular format.

The Directorate finds that the GPS-like instruction, at the beginning of the ad, poses a safety hazard to the driver and as such the commercial is in breach of Clause 3.6 of Section II.

The complaint is upheld.

Sanction

The Advertiser is instructed to remove the commercial containing the audio of a GPS instruction, within the deadlines set out in Clause 15. 3 of the Procedural Guide, which in the current case is immediately, as deadlines permit.