



Case Report

1	Case Number	0236/16
2	Advertiser	Ultra Tune Australia
3	Product	Automotive
4	Type of Advertisement / media	TV - Pay
5	Date of Determination	08/06/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens on a car with its roof down driving in to an automatic car wash. The female passenger has her arm raised in the air and is taking a selfie of herself and the female driver. After taking the photo she brings the phone down to check it and we see the driver also admiring the photo whilst the car continues to move forwards. The passenger places the mobile phone on a cradle on the dashboard and as the camera pans down we see another mobile device as well as numerous charging cables which start shorting out: buzzing is heard and sparks are seen. We then see the car's battery warning light flashing and the women notice that the roof of the car is not able to come up because of the lack of electrical power. The car wash starts and we see the women sprayed with water as they scream and wave their hands about. A male voice over says, "Avoid unexpected situations. Get your battery checked at Ultra Tune" and we see the car exiting the car wash filled with bubbles.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

UltraTune consistently produces advertisements that invariably depict attractive young women as vacuous, stupid, and dim witted. Presumably they believe these advertisements to be comical, but they are inherently sexist and demeaning to women, portraying either all

women as unintelligent, or some kinds of women (big breasted, young) as docile, incapable, unintelligent and thoughtless. Gratuitous sexualisation of women. There is a consistent theme in which women are positioned as hopeless, helpless, useless and stupid, and in 2016 this is entirely inappropriate and unnecessary.

Advertisements that show women knowing nothing about cars, to the extent that they would be stupid enough to not remember to put the top up on a convertible before driving through a car wash, is insane. This advertisement is offensive because they depict females as A) bad drivers B) stupid and C) vacuous. These are negative, misogynistic and unhelpful stereotypes which have no place on TV in 2016, and are especially dangerous to young or impressionable minds watching the sport channel.

Is it that hard to not demean an entire gender in order to advertise a product/service? In this day of political correctness and anti-sexism, these ads are so sexist, especially in this modern era, that I am totally gobsmacked. The skit had no relevance or connection to the product being advertised and it depicted women as stupid.

THE ADVERTISER'S RESPONSE

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

We confirm that we act on behalf of Ultra Tune Australia.

We refer to your email letter attaching complaints concerning our client's advertisement broadcasted on pay TV.

The advertisement in question is 30 second advertisement with two female actors in a motor vehicle that drives into a car wash.

We note the issues raised by your letter (2.1, 2.2, 2.3 & 2.6 of the Code) and respond as follows:

2.1 Discrimination or Vilification Gender

Section 2.1 of the Code states that "Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief."

The Practice Note is relevant to this matter and, in relation to Section 2.1, describes types of behaviour and restricts depictions of those types of behaviour against people within certain groups. Those types of behaviour are: Discrimination, unfair or less favourable treatment, vilification, humiliation, intimidation, incitement of hatred, contempt or ridicule.

In our respectful submission, the advertisement does not show any form of discrimination or

unfair or less favourable treatment against women.

Previous findings

We refer to the Board's previous decision in Case 0176/16 and note the findings that:

1. *However the Board considered that the women are depicted as unintelligent in the way in which they sit passively, with blank faces, in the car on the train tracks and also in the way they appear to not notice the oncoming train. This behaviour, in the Board's view, makes the women appear unintelligent and presents them in a stereotypical helpless female situation*

2. *the advertisement depicts women in a manner which suggests they do not get their car serviced, are unintelligent and unable to recognise a dangerous situation and the Board considered that the advertisement presents women as ridiculous. The Board considered that the stereotypical depiction of women being unable to look after their car perpetuates the depiction of women being ridiculous in relation to cars and that this incites ridicule towards their behaviour and women in general.*

In the current advertisement, the women do not sit passively, with blank faces, nor are they unaware of the issue created in this 'unexpected situation' (i.e. the theme of the ad series). The women cannot, therefore, be said to be portrayed in an unintelligent or stereotypically helpless depiction.

Furthermore, the fact that the car breaks down cannot form a depiction of women as unintelligent or unable to recognise a dangerous situation. The irony is that, in any iteration of this hyper-realistic situation, the unreasonable inference could be that the specific class of persons (i.e. gender, sexual orientation, race, etc.) would somehow be portrayed as "ridiculous...and...incites toward their behaviour". Any common-sense viewing of this ad leads to the conclusion that the driver and passenger have broken down in a car wash – the fact that they are female bears no consequence of the overall message of the ad.

The Macquarie Dictionary definition of incite is "to urge on; stimulate or prompt to action".

The Macquarie Dictionary definition of ridicule is "1. Words or actions intended to excite contemptuous laughter at a person or thing; 2. To deride".

Clearly, there is no act in this advertisement that is intended to either excite contemptuous laughter (i.e. laugh at rather than with the characters), or urge on, stimulate or prompt to action hatred contempt or ridicule for women. Any such finding could naturally be the result of an agenda driven biased view, however this should not be said to be the view of reasonable members of the public.

2.2 Objectification Exploitative and degrading – women

Section 2.2 of the Code states that "Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people."

"Exploit" is defined in the Oxford dictionary as making use of a situation in a way that is underhanded or unfair.

“Degrading” is defined in the Oxford dictionary as treating or regarding someone with contempt or disrespect.

We refute the suggestion that the advertisement in any way exploits or degrades women. The advertisement neither diminishes the actors’ self-respect or humiliates them in any way. Furthermore, the advertisement does not make use of the car wash situation in way that is underhanded or unfair. The advertisement is a comical portrayal of a hyper-realistic situation that could occur, if a driver failed to properly service their vehicle. That the actors are female is immaterial to the underlying message of the advertisement being conveyed.

We refer to the Board’s previous decision in complaint reference number 0020/16 and 0021/16 that:

“The Board noted that advertisers are free to use whomever they wish in their advertisements and considered that the use of two women in a car for an automotive product or service is not of itself discriminatory. The Board noted the women are dressed in low cut tops and short skirts and also noted that the scene is set at night and considered that the clothing is not inappropriate for two women going out. The Board also noted the complainants’ concerns over the way in which the women are depicted with fake breasts, plumped up lips and shiny, plastic looking faces. The Board considered that the women are depicted sitting in a vehicle and walking away, in a Charlie’s Angels type strut, from the vehicle. In the Board’s view, while the women are wearing revealing clothes, the emphasis in the advertisement is on their position on a train track and not on particular aspects of their bodies. The Board considered that the women’s’ physical appearance may be considered as sexy to some viewers or exaggerated to others but that this is not of itself vilifying or discriminatory.”

Furthermore, at no time, is the emphasis or focus of the advertisement on the actor’s bodies or their clothing. The advertisement and actors are not strongly sexualised in any material way.

We refute that the actors are portrayed as being unintelligent or stupid.

(i) It is a common occurrence for people to take “selfie” photographs regardless of their intelligence. The Internet and mainstream media contains many examples of such photographs.

(ii) The advertisement clearly show that the actors are consciously aware of the problem (i.e. that the electrically operated roof does not work) and acknowledge the problem. There is clear recognition that the vehicle and actors will be drenched in water from the car wash.

(iii) Once in the car wash, there is very little (from a practical perspective) that either any person could do, irrespective of gender. We submit that the ad does not depict the women as either docile or unintelligent - they are reacting as any person would in that situation (albeit that the advertisement provides a hyper-realistic and comical setting).

(iv) There is no ridicule of the women but rather, in line with the humour of the advertisement, they are placed in a ridiculous and ‘unexpected situation’, which is the theme of the advertisement (i.e. had they had the car serviced by our client, this situation would not

have occurred).

We also submit that the advertisement, like all in our series, has been created in an ‘over the top’ and comical manner. For example, the electrical wiring in the central console is clearly not realistic with clearly artificial wiring sparks and smoke. The advertisement in no way suggests that this situation occurred because the occupants are female, nor does it suggest that this would not be possible if the occupants were male – it is clearly a comical depiction of an outrageous scenario that could occur (although unlikely), if a person was to fail to service their car adequately.

The advertisement has a PG rating classification.

2.6 Health and Safety Unsafe behaviour

2.6 Health and Safety within prevailing Community Standards

Section 2.6 of the Code states that “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.”

We note that the ASB letter of 17 May 2016 seeks a response from our client in respect of Section 2.6 of the Code. Save for a verbal reference of the ASB regarding the depiction of the passenger’s arm outside the vehicle, the complaints included in the ASB letter do not make any reference to any safety issues nor are there any further particulars in the ASB’s letter of their safety concerns.

We are not in an adequate position to properly respond to any allegation / concerns in respect of section 2.6 of the Code. As a matter of natural justice, we reserve the right to provide further response to any allegation or concern in this regard.

Nevertheless, without prejudice to our rights of further response, we say the following:

- (a) The advertisement was filmed in a controlled environment. At no time were any actors or production crew ever at any risk of harm.*
- (b) The vehicle was a convertible and is shown pulling into the entrance of an automatic car wash at slow speeds and came to a complete stop.*
- (c) The passenger’s arm was extended above her head in a safe position. The vehicle was on private property and not on the open public road (no road laws were infringed).*
- (d) The driver was not holding nor controlling the mobile phone at any time.*
- (e) The “selfie” photograph was taken by the passenger whilst the vehicle was in (and under the control of) the automatic car wash.*
- (f) The style of the advertisement is a staged, exaggerated and unrealistic situation designed for humour, as clearly portrayed by the exaggerated and unrealistic electrical wiring, sparks, smoke, reactions of the women to the roof not deploying, the woman going through the automatic car wash and the soap bubble filled vehicle cabin at the end.*

(g) *The humour of the advertisement was presented in a staged exaggerated and unrealistic situation that provide an overall impression of humour, which would not be able to replicated by the boarder community.*

For the reasons above, we do not believe the advertisement breaches AANA Advertisers Code of Ethics in any way.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concerns that the advertisement depicts women as stupid sex objects and is demeaning and inappropriate.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Board noted that this television advertisement shows two women going through a car wash in a convertible and being unable to put the roof down as the battery has failed as a result of the numerous devices they are charging.

The Board noted the Practice Note relevant to this matter and in relation to Section 2.1 which describes types of behaviour and restricts depictions of those types of behaviour against people within certain groups. The types of behaviour are:

- Discrimination – unfair or less favourable treatment
- Vilification – humiliates, intimidates, incites hatred, contempt or ridicule.

The Board noted the Macquarie Dictionary definition of incite:

- “to urge on; stimulate or prompt to action”.

The Board noted it had previously upheld similar complaints about advertisements by the same advertiser where the same women were presented in an unexpected situation. In those cases (0020/16, 0175/16):

“The Board noted that the intent of the advertisement is to depict two women unexpectedly breaking down – with the advertiser suggesting that regular services from Ultratune will prevent such an ‘unexpected situation.’ The Board accepted that the intent of the advertisement is to show an unrealistic situation. However the Board considered that the women are depicted as unintelligent in the way in which they sit passively, with blank faces, in the car on the train tracks and also in the way they appear to not notice the oncoming train.

This behaviour, in the Board's view, makes the women appear unintelligent and presents them in a stereotypical helpless female situation. In the Board's view, the depiction of the women's reaction to their situation is a negative depiction of women and does amount to vilification of women...

The Board considered that the advertisement ridicules people of a certain group, namely women, in the way in which the women are depicted. Specifically, the Board considered that the overall suggestion in the advertisement is that these women can't think: their car slowly comes to a stop and their reaction is to look as though they have not fully registered what has happened and take too long to realise where they have broken down and the consequence of that."

The Board noted it had also dismissed complaints about an advertisement by the same advertiser showing the two women almost driving over a cliff in case 0040/16 where:

"...the Board considered that the women are shown making a not uncommon accident then actively trying to save themselves. The Board noted it was the woman's fault that the car ended up balancing precariously on the edge of a cliff but considered that selecting the incorrect gear is not an unlikely occurrence even if the consequences in the advertisement are absurd. The Board accepted the intent of the advertisement is to show an unrealistic situation. The Board noted in the current advertisement that although the women do not speak they do have the presence of mind to realise that they are in danger and use an App to summon a rescue party."

In the current advertisement the Board noted that although it is the women's fault that the battery dies – the suggestion being that they have overloaded the battery with charging cables, and that they have not had their car serviced regularly – the women are shown to immediately recognise that there is a problem with their car even though they are powerless to do anything about it.

The Board noted that advertisers are free to use whomever they wish in their advertisements and considered that the use of two women in a car for an automotive product or service is not of itself discriminatory. The Board considered that the women's physical appearance may be considered as sexy to some viewers or exaggerated to others but that this is not of itself vilifying or discriminatory.

Overall the Board considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: "Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people."

The Board noted the complainants' concerns that the advertisement depicts women as sex objects and noted that in order to breach this Section of the Code the images would need to be considered both exploitative and degrading.

The Board acknowledged that some members of the community would find the use of female models to promote an automotive service to be exploitative however the Board considered that this use of women is not itself a breach of the Code. The Board noted that the clothing worn by the women is not clear as the focus is on the car and the women's heads. The Board noted that in some scenes we can see the top of the women's breasts but considered that their breasts are not the focus of the advertisement.

The Board considered that the overall manner in which the women are depicted in the advertisement does not use their sexual appeal in a manner that is exploitative or degrading.

The Board considered that the advertisement did not employ sexual appeal in a manner which is exploitative and degrading to any individual or group of people.

The Board determined that the advertisement did not breach Section 2.2 of the Code.

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Board noted that as the women approach the car wash we can see the passenger holding her arm up to take a photo of herself and the driver. The Board noted that the woman's arm is briefly shown to be outside the confines of the vehicle but considered that this scene is very brief and the vehicle is clearly about to enter a car wash and is not being driven on a public road. The Board noted that we see the driver look to the camera and smile for the photo and considered that although the vehicle is still moving the vehicle is on the automated rollers carrying the vehicle through the car wash at this point therefore the driver is not being negligent by not looking where the car is going.

The Board noted the unrealistic depiction of overloading the vehicle's 12 volt auxiliary power. The Board noted that overloading power boards is a serious health and safety concern in the community and that it had previously upheld complaints where this type of activity was depicted in an advertisement (481/10, 0104/15). The Board noted however that unlike the previously upheld advertisements where the activities portrayed could be copied by members of the community and could result in serious bodily harm the current advertisement shows an activity unlikely to be copied by the community and even if it were it would be unlikely to result in harm as the electricity source is a 12 volt car battery and not the mains electricity. The Board noted the overall tone of the advertisement and considered that the women's actions in overloading their auxiliary power circuit is clearly presented in a negative light and would be unlikely to encourage copycat behaviour.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaints.

