



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0044/17</b>
<b>2</b>	<b>Advertiser</b>	<b>Ultra Tune Australia</b>
<b>3</b>	<b>Product</b>	<b>Automotive</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Internet-Social-FB</b>
<b>5</b>	<b>Date of Determination</b>	<b>08/02/2017</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general

## DESCRIPTION OF THE ADVERTISEMENT

This Facebook advertisement features two women driving in a car. As they approach a set of traffic lights we see the muffler detach from the car and fall to the road before catching fire. The two women scream then jump out of the car, one of them uses their phone to contact Ultra Tune and we see one of them grabbing a fire extinguisher. We then see both the women using fire extinguishers on the car, and each other, with close up shots of their singlet-clad chests and their denim hot pants-clad bottoms. The footage appears to have been slowed down and we see the women screaming and running from the car as it explodes.

A male voiceover says, "Avoid unexpected situations...get your car serviced at Ultra Tune" and we see an Ultra Tune employee arrive in a car and ask the women, "Car trouble?"

## THE COMPLAINT

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

*The sexualisation of women, and the reinforcement of a stereotypical view that women are poor at maintaining cars and require help from males, otherwise they create disaster.*

*The advertisement is incredibly sexist and portrays revolting standards insinuating women are bad at driving, stupid, and only to be ogled at for their breasts/butts, etc.*

*Very disturbing attitude in the 21st century when there should be a promotion of the idea that women can be great mechanics. It is disgusting*

*I am offended at the blatant sexual images used here for free to air TV. The women are wearing clothes that emphasise their breasts and butts and the way they are positioned is purely aimed for men and not women. The way they spray each other with an extinguisher has much sexual innuendo. It is not appropriate for free to air TV.*

## **THE ADVERTISER'S RESPONSE**

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

*Advertisements - Complaint References 042/17, 043/17 & 044/17*

*We refer to your three email letters attaching various complaints concerning the Ultra Tune Australia Ltd (Ultra Tune) "Muffler" advertisement (Muffler advertisement) broadcast on Channel 7, Internet and Social Media.*

*The Muffler advertisement is a 30 second advertisement where a motor vehicle's muffler falls off, catches fire and then explodes. The 30-second advertisement can be viewed at the following link:*

*<https://www.youtube.com/watch?v=DjFcEvTl1NQ>*

*The relevant CAD reference numbers are P47Y8ROA and it has a PG rating.*

*Preliminary comments*

*Ultra Tune takes very seriously its advertising and, in particular, the provisions of the AANA Code of Ethics (Code) and the AANA Code of Ethics Practice Note (Practice Note).*

*We observe that the complaints with your three letters of 17 January 2017 were all received by the Bureau on 17 January 2017 by email with a significant number of the complainants claiming confidentiality as to their identity. The wording of a number of the emails (in particular, but not limited to, the references to "wet t shirt") follows the wording of a post on the website of Collective Shout Ltd (Collective Shout) dated 16 January 2017.*

*Collective Shout will be familiar to the Bureau, it has long campaigned against advertisers (of which Ultra Tune is but one) and indeed the Advertising Standards Board in respect of alleged objectification of women and sexualisation of girls in advertising.*

*You have subsequently, by email letters dated 23 January 2017 (two) and 30 January 2017 (two), sent us further email complaints. Again our perusal of these complaints shows that many follow that wording of the post on the Collective Shout website.*

*Ultra Tune is not, of course, in a position to positively say that the complaints were or are part of a campaign. Ultra Tune further acknowledges that many of the complainants will*

*have deep and strongly held beliefs about objectification of women and sexualisation of girls in advertising.*

*However, the issue is not particular complainants' beliefs but instead, and as the Practice Note recognises, Prevailing Community Standards. In this respect the Board will also be aware that an objective assessment is required, and the intolerance of a particular viewer of an advertisement is not determinative where that intolerance does not accord with Prevailing Community Standards.*

*The Board will be further aware that it is not the volume of complaints per se that is important, this particularly if they appear to be the product of a campaign. The question instead is whether there is any merit in the complaints.*

*We further note that following upon the Board's decisions last year in respect of Ultra Tune's advertising, Ultra Tune has sought by its most recent advertising to avoid any depiction of women as unintelligent or unaware of their surroundings.*

*This because cases 0020/16 and 0175/16 (being the only cases where a complaint was upheld against Ultra Tune – 0175/16 was a "reconfirm(ation)" of 0020/16) the depiction of women in the "Train wreck" advertisement as a negative stereotype, unintelligent or unaware of their surroundings, was the determinative matter that resulted in a finding of breach of section 2.1 of the Code.*

*The Board will be conscious that it is important for advertisers that there be consistency in its decisions, in particular because an advertiser will rely, and in this instance Ultra Tune has relied, upon the Board's prior decisions to guide the advertiser in its subsequent advertising. In particular, with the Muffler advertisement (which is clearly intended as hyper-realistic and comedic), Ultra Tune has striven to avoid that particular negative stereotype.*

*Detailed responses*

*We note the issues raised by your seven letters being sections 2.1, 2.2, 2.4 & 2.6 of the Code).*

*We respond as follows:*

*2.1 Discrimination against or vilification by reason of gender*

*Section 2.1 of the Code provides:*

*"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 elaborates on the above by saying:*

*Discrimination - unfair or less favourable treatment;*

*Vilification - humiliation, intimidation, incites hatred, contempt or ridicule.*

*In our respectful submission, the advertisement does not show any form of discrimination, vilification, humiliation, contempt or ridicule against women.*

*We refer to the Board's previous decisions in Cases 0040/16 and 0236/16 where the Board dismissed the complaints.*

*In case 0236/16 the Board, inter alia, stated 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' (sic) physical appearance may be considered as sexy to some viewers or exaggerated to others but that this is not of itself vilifying or discriminatory”.*

*In cases 0020/16 and 0175/16, the determinative fact in terms of breach of section 2.1 was that the Board was of the view that the*

*“overall impression given by the advertisement that the women appear unintelligent and until the last minute are completely unaware of their surroundings or the danger they are in”.*

*It is clearly apparent that the situation portrayed in the Muffler advertisement is hyper-realistic with comedic 'slap-stick' humour.*

*We submit that there is no basis for the Board to determine that the Muffler advertisement vilifies, humiliates, or ridicules women nor can it be found that women are portrayed in a negative stereotype, unintelligent or helpless or unaware of their surroundings.*

*At all times, the female actors are in full control of the vehicle.*

*The advertisement clearly show that the actors becoming consciously aware of the fire with the vehicle and react immediately.*

*Upon seeing the fire at the back of the vehicle, they immediately and positively act to resolve the unexpected situation; namely call for help using the Ultra Roadside app on their mobile phone, grab fire extinguishers, exit the vehicle and attempt to put the fire out with the aforesaid extinguishers. These are actions that would occur regardless of gender and are contrary to the complaint of them being unintelligent or helpless.*

*Furthermore, they then make the conscious decision to flee from the burning vehicle when they realise they could or did not put the fire out. The same reaction a reasonable person would have regardless of gender.*

*The oil falling on splashing them near the end of the advertisement is a further unexpected situation from the vehicle explosion (and a hyper-realistic comedic situation).*

*It is not a depiction of females being helpless.*

*Their demeanour at the end is designed not to be of helpless but relief from the incident and that help has arisen.*

*The use of a male driver is not intended to be a statement or comment on gender roles. This character is an employee of the company and is a continuation from our previous unexpected situation advertisements. We also point out that opportunity to assist with either extinguishing the fire or otherwise preventing the vehicle exploding had passed by the time the Roadside Assistance driver arrived.*

*At all times, the female actors were in summer street clothing. The advertisement did not focus on their clothing but on them reacting to the unexpected situation. We deal with the single close frame of the female actors' bottoms below.*

*Furthermore, the fact that the vehicle catches on fire and explodes 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. of whatever gender, sexual orientation, race, etc.) is somehow being portrayed as (per case 0175/16) "ridiculous...and...incites ridicule toward their behaviour". Any common-sense viewing of this advertisement is that the vehicle caught on fire – the fact the actors are female bears no consequence for the overall message of the advertisement.*

*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 the reasonable general public.*

## *2.2 Objectification Exploitative and degrading – women*

*Section 2.2 of the Code provides:*

*"Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people."*

*We refute the suggestion that the advertisements in any way exploits or degrades women. The advertisement neither diminishes the actors' self-respect or humiliates them in any way.*

*We refer to and repeat our submissions regarding section 2.1 of the Code above.*

*The advertisement (like all previously in this series) is a comical over-the-top 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 and the use of females is not of itself discriminatory. For example, the advertisement shows the females exiting the vehicle (with fire extinguishers) and running to the rear of the vehicle. In their haste, they are shown to bump into each other causing them to lose their balance and resulting them spraying each other with the fire extinguishers. These scenes have been dramatized in a comical way to lighten the otherwise serious nature of a burning vehicle.*

*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.*

*There is a single close frame of the female actors' bottoms which was intended to show/emphasise the change of momentum resulting in the actors bumping into each other. However, when viewed in the context of the surrounding scenes, we submit it cannot be reasonably seen as exploitive or degrading.*

*We also note what the Board said in case 0175/16 which was:*

*"The Board acknowledged that some members of the community would find the use of female models to promote an automotive service to be exploitative. The Board noted that the two women are wearing 'going out' clothing which is often revealing but considered that in this instance although the women's breasts are enhanced by the style of clothing they are wearing, their breasts are not the focus of the advertisement. The Board considered that, consistent with a previous determination in case 0093/12, while it is not necessary for the women to be wearing low-cut clothing, it is not an unusual style of clothing for women to wear on a night out and the women's physical features are not the focus of the advertisement."*

*And later in that decision:*

*"The Board noted it had previously dismissed complaints about an advertisement for the same advertiser in case 0201/14 where:*

*"The Board noted the complainants' concerns that the women use seductive moves around the tyres. The Board noted that the advertisement is for tyres and tyre fitting and that the idea is to draw the attention of the viewer to the tyres. The Board noted that it is unlikely that anyone would behave in the same manner around tyres but that the actions of the women are exaggerated and unrealistic in a humorous way and are only mildly sexually suggestive."*

*In the current advertisement the Board noted that the women are wearing clothing consistent with going out for an evening and considered that while the women's cleavages are substantial the level of exposure is not excessive or inappropriate for evening wear."*

*The same analysis applies in our submission to the Muffler advertisement and the actors bumping into each other.*

*Similar and as mentioned above, the oil falling and splashing on the actors near the end of the Muffler advertisement cannot reasonably be deemed exploitive – it reflects the 'slap stick' nature of the advertisement.*

*Lastly, we remind the Board that the advertisement has a PG rating classification.*

#### *2.4 Sex/sexuality/nudity S/S/N - general*

*Section 2.4 of the Code provides:*

*"Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience".*

*At all times, the female actors were fully clothed in summer clothing. There is no nudity or*

*sexual acts displayed in the Muffler advertisement.*

*Insofar as there is the moment where the actors' bottoms bump into each other, we adopt and repeat what we said above in respect of section 2.2.*

## *2.6 Health and Safety Unsafe behaviour*

*Section 2.6 of the Code provides:*

*“Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.”*

*This complaint, which – as far as we can discern - appears in one email sent with your long (in terms of the number of emails attached) letter of 30 January relates to what kind of fire extinguisher was used, water or dry powder. Both are said to be unsafe, the former for petrol fires, the latter if the powder is inhaled.*

*However, this is a hyper-realistic comedic advertisement, and it is in that context that the extinguishers are used. Section 2.6 was also in issue in case 0175/16 and what the Board there said is worth setting out:*

*“The Board noted the complainants' concerns that the advertisement is insensitive to community concerns about rail crossing safety.*

*The Board noted that rail crossing safety is a genuine community concern and considered that depictions of this that are intended to be humorous should be treated with care. The Board considered that in this instance the advertisement clearly depicts the women's actions as negative. The Board noted that the voice over enforces the negative connotation by describing the situation as an unexpected scenario which could have been avoided. The Board noted that the women survive the implied accident between the train and the car and considered that their survival is not misleading or presenting an unsafe message because the scenario of the women being able to walk away from such an accident is clearly an unrealistic outcome.*

*The Board considered that the advertisement did not encourage or condone members of the community to copy the women's actions with regards to the safe crossing of rail tracks.*

*The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on safety around level crossings.”*

*The same analysis applies in this instance: the advertisement does not encourage or condone unsafe use of fire extinguishers. Insofar as the two actors do end up spraying each other with the extinguishers, that is part of the comedic nature of the advertisement.*

## *Conclusion*

*Ultra Tune does not believe there are any merits in the complaints.*

*In particular, and for the reasons above, we do not believe the Muffler advertisement breaches the Code 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 portrays women as helpless bimbos, uses sexual appeal in a manner which objectifies women, shows women wearing limited clothing with a focus on their cleavage and bottoms, and has an overall sexualised tone which is offensive 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 Facebook advertisement depicts a car catching fire and the two female occupants jumping out to use fire extinguishers but end up spraying each other rather than the car, which is then shown to explode.

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 singlets and shorts and considered that the clothing is not of itself inappropriate. The Board noted that the women’s physical appearance may be considered as sexy to some viewers or exaggerated to others but considered that this is not of itself vilifying or discriminatory.

The Board noted the complainants’ concerns that the women are depicted as stupid and helpless.

The Board noted it had previously considered similar complaints about the same two women whose car broke down on a rail crossing in case 0020/16 where:

“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 did portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender and determined that the advertisement did breach Section 2.1 of the Code.”

The Board noted in the current advertisement that as soon as the muffler falls off the car and



catches fire, the women are shown to notice this and to contact Ultra Tune before they attempt to put out the fire. The Board considered that unlike in case 0020/16, the women are shown to be aware of their situation and considered that while the women's handling of the fire extinguishers is not ideal in the Board's view the women are depicted as being aware and in control therefore there is no suggestion that these women are stupid or helpless with regards to their predicament. The Board noted that a muffler falling off a car and catching fire, while uncommon, could happen to any person and considered that the advertisement's depiction of this happening to two women, who then take control of the situation, does not discriminate against or vilify 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. The Board noted that in order to be in breach of this section of the Code the image would need to use sexual appeal in a manner that is both exploitative and degrading.

The Board noted the Practice Note for Section 2.2 which provides the following definitions:

"Exploitative means clearly appearing to purposefully debase or abuse a person, or group of person, for the enjoyment of others, and lacking moral, artistic or other values;

Degrading means lowering in character or quality a person or group of persons."

The Board acknowledged that some members of the community would find the use of female models to promote an automotive service to be exploitative. The Board noted that the two women are wearing singlets and shorts, clothing which is often worn by young women in Australia, and considered that in this instance although the women's breasts are enhanced by their tight singlet tops the women are wearing, their breasts are not the focus of the advertisement. The Board noted that when the women attempt to use the fire extinguishers we see them spray one another as well as the car. A minority of the Board noted that during the fire extinguisher scenes the footage does appear to be slowed down and the camera does linger on the women's bottoms and chests. A minority of the Board considered that this focus on the women's bodies is gratuitous and in their view presents women in a manner which is both exploitative, as it reduces them to parts of a body, and degrading, because it implies that the women should be thought less of because they can't use a fire extinguisher without wiggling their bottoms and spraying one another's breasts.

Following considerable discussion however, the majority of the Board considered that, consistent with a previous determination in case 0093/12, whilst it is not necessary for the women to be wearing low cut clothing their clothing is not unusual attire for young women and the women's physical features are not the focus of the advertisement. The majority of the Board considered that the focus on the women's bodies during the fire extinguisher scenes is very fleeting and in their view while it is exploitative to focus, albeit briefly, on women's body parts the women are depicted as being in control and having fun which is not degrading or demeaning to women.

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

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Board noted the complainants’ concerns that the advertisement depicts women wearing limited clothing which reveals their nipples and that it has an overall sexualised tone.

The Board noted that the women are wearing singlet tops and considered that while their breasts are outlined by their tops, in the Board’s view their nipples are not visible – either intentionally or accidentally. The Board noted that the women are also wearing denim shorts and considered that their private areas are fully covered and the overall level of nudity is mild.

The Board noted the complainants’ concerns that the women’s behaviour is sexualised. The Board noted that the women’s behaviour is exaggerated and over the top with regards to their screaming and then bumping in to one another while trying to use fire extinguishers but considered that while their appearance is sexy their behaviour is not sexualised.

The Board noted that the advertisement had been seen on Facebook where the audience is persons aged over 1 years and considered that overall the advertisement depicted two women wearing revealing clothing but did so in a manner that minimised the sexual impact of the advertisement and in the Board’s view did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience of Facebook.

The Board determined that the advertisement did not breach Section 2.4 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 the complainants’ concerns that the advertisement is insensitive to community concerns about rail crossing safety.

The Board noted that the women in the advertisement are using fire extinguishers.

The Board acknowledged that there is a high level of community concern around fire safety. The Board noted the advertiser’s response that the women bump in to one another which is why they spray one another and considered that the women’s behaviour is clearly farcical and it is very unlikely that any member of the community would take the women’s actions as endorsement on how to safely use a fire extinguisher in any situation.

The Board considered that the advertisement did not encourage or condone members of the community to copy the women’s actions with regards to using a fire extinguisher on another person.

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

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.