



Case Report

1	Case Number	0021/16
2	Advertiser	Ultra Tune Australia
3	Product	Automotive
4	Type of Advertisement / media	Internet
5	Date of Determination	10/02/2016
6	DETERMINATION	Upheld - Not Modified or Discontinued

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 2.3 - Violence Causes alarm and distress
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.6 - Health and Safety Unsafe behaviour

DESCRIPTION OF THE ADVERTISEMENT

This advertisement shows two women driving a convertible car and listening to music. The car comes to a stop and we see that they are on a railway crossing. The warning lights for the crossing flash and the barrier comes down trapping the women and their car in the path of an oncoming train which we can hear and see approaching them. The women scream and the screen goes dark and we hear the sound of a crash. A male voiceover then says, "Avoid unexpected situations. Get your car serviced at Ultra Tune". We then see the two women walking away from their car which is now engulfed in flames.

THE COMPLAINT

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

It is disrespectful and degrading to women. It portrays two women as sex objects. This may seem trivial to you as you have allowed similar ad's in the past. But I would like to remind you that the Prime Minister Malcolm Turnbull has called on all Australians to make a "cultural shift" and stop disrespecting women. "Because violence against women begins with disrespecting women".

THE ADVERTISER'S RESPONSE

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

Advertisements Complaint References 0020116, 0021/16, 0022/16, 0023/16, 0024/16 & 0025116

We refer to your email letters attaching complaints concerning Ultra Tune's three advertisements currently broadcasted on Channel 7 and our website.

The advertisements in questions are:

- Unexpected Situation advertisement: 30 & 15 second advertisements with two female actors in a motor vehicle that breaks down at a railway crossing. They can be viewed on our YouTube channel <https://www.youtube.com/watch?v=vcKXY68Bsvw> and <https://www.youtube.com/watch?v=kFxJhRQBeaw> respectively. The CAD reference numbers are P2KP2ROA and P2KPIROA respectively and they have a PG rating.*
- January 2016 Nexen advertisement: 15 second advertisement of two female actors dressed in black figure hugging clothing holding tyre changing hand tools. It can be viewed on our YouTube channel <https://www.youtube.com/watch?v=cLpTzuHbEDA>. The CAD reference number is P2JTIROA and is PG rated.*
- Get into Wimbledon advertisement: 15 second advertisement of two female actors dressed in black figure hugging clothing holding tennis rackets. It can be viewed on our YouTube channel <https://www.youtube.com/watch?v=cLpTzuHbEDA>. The CAD reference number is P2JTJROA and is PG rated.*

We respond to the issues raised by the complainants (2.1, 2.2, 2.3, 2.4, 2.5 & 2.6 of the Code) as follows:

Unexpected Situation advertisement

- 1. The objective of our advertisement is to promote Ultra Tune servicing by encouraging owners to have their vehicles serviced so as to avoid unexpected situations I break downs (this is clearly stated in the voiceover near the end of the advertisements).*
- 2. The advertisement was designed in an exaggerated action movie style and is not intended to be a fully realistic portrayal of real events.*
- 3. Concerns about safety & violence*

(a) We sympathise and extend our condolences to the complainants who have suffered or been involved in any railway related tragedy. Our advertisements are not intended to cause distress and we regret any distress it may have caused to those in the public.

(b) The characters do not intentionally stop at the railway crossing. There is no suggestion of a suicide or an attempted suicide. At approximately 4 seconds into the advertisement, a loud bang can be heard and the driver is seen to attend to the controls of the vehicle at first instance (as any reasonable driver would). In the next scene, the vehicle's brakes are being applied in a controlled manner (brake lights are illuminated) as any driver would do.

(c) It is clear that the vehicle has broken down. At approximately 6 seconds, the vehicle stops abruptly and the red crossing signal lights are not flashing.

(d) The driver immediately tries to re-start the vehicle (in order to move the vehicle off the rail line).

(e) At 11 seconds, a long shot of the vehicle at the rail line crossing is depicted and the viewer can see smoke emanating from the front of the vehicle; a clear indicator of a mechanical problem with the vehicle. The driver is continuing to try to restart the vehicle but to no avail

(f) There is no depiction of the collision between the motor vehicle and a "train" (no train is actually depicted in the advertisements).

(g) The characters are shown surviving the inferred collision in the exaggerated unrealistic movie style mentioned above at the end.

(h) The advertisement was filmed in a controlled environment. At no time were the actors or production crew under any risk of harm.

4. We refute the suggestion that the advertisements objectifies or degrades women.

5. The actors are fully clothed wearing evening street clothing that is common in today's society.

(a) The whole advertisement is depicted at dusk and night / evening time, when it is common for women to be in such attire.

(b) The advertisements do not portray nor suggest sex or any sexual act and the actors are not being portrayed as objects of lust. The advertisements do not include any graphic nudity and there is no uncovered flesh.

6. We note a number of complaints have referred to the actors in a derogative way, based upon their appearance which is a personal bias. In other environments (such as a workplace or school yard), such derogative comments based upon appearance could be considered harassment and bullying.

7. We refute that advertisements suggest or encourages harassment, rape or any other violence against women. Ultra Tune strongly objects to any violence against all people including women. The clothing that the actors are wearing or any person chooses to wear is in no way an excuse or reason for harassment, rape or violence against them. Indeed one of the female actors is an ambassador of White Ribbon Australia (Australia's campaign to prevent men's violence against women).

8. Furthermore we refute that the actors are portrayed as being unintelligent or stupid.

(a) At no time are the actors shown as anything other than as normal people driving with loud music in their vehicle or otherwise.

(b) The characters deal with the vehicle break down without assistance and are not "helpless".

(c) They also escape the implied collision by themselves. The decision to abandon and escape the vehicle is the safest decision.

(d) The final scene was designed to emphasise the female empowerment with them confidently walking away from the vehicle without harm.

9. The use of a male voiceover near the end of the advertisements is a neutral announcement without condescending to the female characters. It is in no way suggesting that a male figure was required to assist the female characters. There is also no suggestion that the female characters required a male figure for assistance with the breakdown and their escape.

10. The advertisements are classified with a PG rating.

January 2016 Nexen advertisement

11. The advertisement is to promote tyres (specifically Nexen Tires) from Ultra Tune.

12. The actors are fully clothed. The images do not portray nor suggest sex or a sexual act and the actors are not being portrayed as objects of lust. The advertisement does not include any graphic nudity and there is no uncovered flesh.

13. The "tongue in cheek" reference to "rubber" in the super and voiceover is clearly explained as referring to Nexen Tires (which is also depicted).

14. The rubber reference and the actors' clothing are a continuation of Ultra Tune's previous advertisement (CAD reference PZLIIROA which also had a PG rating). The previous advertisement was considered by the Board (case number 0201/14) and the complaints were dismissed.

15. The tyre equipment props are not used in a sexual manner or in a suggestively sexual manner.

16. The actors were treated fairly during the production and were remunerated for their performance.

17. We also refer to case number 0380/13 where the complaints were dismissed.

18. The advertisement has a PG rating.

Get into Wimbledon advertisement

19. *The advertisement is to promote tyres (specifically GT Radial tyres) from Ultra Tune with a competition to win a trip to Wimbledon.*

20. *The voiceover explains the connection between the purchase of tyres and Wimbledon competition that viewers may enter.*

21. *There is no suggestion in the advertisement that the actors are tennis players.*

22. *The tennis props are not used in a sexual manner or in a suggestively sexual manner.*

23. *We refer to and repeat paragraphs 4, 6, 10, 12, 14, 16, 17 and 18 above.*

In respect of all the advertisements, whilst we appreciate the time and effort the complainants have taken, the number of complaints is a small fraction of the total viewership that has seen the advertisements.

Nevertheless, 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 complainant’s concerns that the advertisement is disrespectful and degrading to women in its portrayal of women as sex objects.

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 there are two versions of this advertisement which features two women whose car breaks down on a rail crossing and is subsequently hit by an oncoming train. The Board noted complaints that the women are depicted as unintelligent sex objects and that this is discriminatory to women. The Board considered whether the depiction of the women was discriminatory or vilifying of women. The Board noted that despite the image of the car in flames, the two women are shown walking away from the accident unscathed. The Board noted that the 15 second version is a cut-down version of the longer 30 second version and features no new footage.

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 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.

The Board also considered the other aspects of the manner in which the women are represented.

The Board noted that throughout both versions of the advertisement the women do not speak, although they do scream just before the train hits their car. The Board noted that when the women's car stops suddenly their reaction is to look blank and do nothing. They appear not to realise that there is a train coming despite being on a rail crossing and despite the noise and vision of both the warning signals and the oncoming train. The Board noted the male voiceover which states, "Avoid unexpected situations. Get your car serviced at Ultra Tune".

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 Ultra Tune 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 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 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 complainant's concern 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. 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 the women are wearing, their breasts are not the focus of the advertisement. 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 for women to wear on a night out and the women's physical features are not the focus of the advertisement.

The Board noted that the women walk away from the aftermath of the implied accident between the car and the train and considered that the manner in which they walk is

reminiscent of Charlies Angels and that whilst the women are portrayed as sexy they are also portrayed as confident and in the Board's view the overall manner in which the women are depicted in the advertisement does not use their sexual appeal in a manner that is 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 whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board noted the depiction of a car being hit by a train. The Board acknowledged that this scene could cause concern to some members of the community based on their own personal experience but considered that the moment of impact is not actually shown and in the Board's view the depiction of the women walking away from the aftermath lends an unrealistic air to this scenario. The Board considered that the advertisement depicts a suggestion of imminent danger which proves to be a lucky escape and is not a depiction of violence.

The Board considered that the advertisement did not present or portray violence and determined that the advertisement did not breach Section 2.3 of the Code.

The Board then 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 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 whilst the women's cleavages are substantial the level of exposure is not excessive or inappropriate for evening wear.

The Board noted that the camera focuses on the women's reactions when they break down on the rail crossing and considered that the focus is on their faces and not their bodies. The Board noted that when the women walk away from the aftermath of the train hitting their car they are shown to strut towards the camera. The Board noted that the women's actions are similar to the walking style of catwalk models and considered that their actions are confident, they are filmed from a distance which minimises the focus on particular parts of their bodies, and are not strongly sexualised

The Board noted that the advertisement had been rated 'PG' by CAD and considered that overall the advertisement depicted two women wearing revealing clothing but did so in a manner that minimised the sexually impact of the advertisement and in the Board's view did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children viewing the television with parental guidance.

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 that rail crossing safety is a genuine community concern but considered that in this instance the advertisement clearly depicts the women's actions as negative. The Board noted that the voiceover enforces the negative connotation by describing the situation as an unexpected scenario which could have been avoided. The Board noted that the woman 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 Board determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement did breach Section 2.1 of the Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

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

We refer to your letter to our clients dated 17 February 2016 and the draft case report detailing the Board's decision enclosed therein.

We are instructed that our client will discontinue the advertisement "unexpected situations" ("the Advertisement"), which is currently the subject of the abovementioned case under protest, noting that it intends to seek an independent review of the Board's decision, once finalised.

Therefore, kindly consider this letter as formal notice of our client's discontinuance of the Advertisement and our request that the Board publish and circulate its final decision.

We advise for the record that our client views the Board's decision that the Advertisement provides "a negative depiction of women and does amount to vilification of women" as without foundation and intends to vigorously dispute these findings.

Accordingly, we look forward to your confirmation of receipt of this letter and subsequently, the Board's final decision.

21 July 2016 - The advertiser informed the ASB that they would not be pulling the advertisement from YouTube. The ASB will continue to work with the advertiser on the issue of compliance with Board decisions.