



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0088/18
2	Advertiser	Illawarra Toyota
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	21/02/2018
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

2.6 - Health and Safety Motor vehicle related

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement featured a number of people driving in vehicles as well as footage of people inside the dealership.

THE COMPLAINT

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

*It also doesn't state that it was filmed under safe and controlled conditions
It is promoting illegal, unsafe, dangerous, reckless and risky driving behaviours*

THE ADVERTISER'S RESPONSE

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

CAD never alerted to us that the footage may be an issue. Never at any point did we feel the advertisement would be considered in breach. When we received this





complaint in-house we had it rectified with in a day, adding the disclaimer ""filmed under safe and controlled conditions" and advising networks of the new key number. All video footage in question apart from the 4WD driving across causeway (which was filmed under controlled conditions and on private property) was stock footage from Getty Images.

Thank you for letting us know.

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 depicts unsafe behaviour.

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

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 this television advertisement features a variety of scenes of vehicles and people, including a vehicle crossing a causeway and a woman in a convertible standing and holding a scarf over her head so that it flapped in the wind.

The Board noted the complainant's concern that the advertisement depicts illegal and unsafe driving behaviours.

The Board considered the scene where a vehicle is shown crossing a causeway which is covered in water.

The Board noted there is significant community concern around crossing flooded rivers or creeks in vehicles.

The Board considered that the water does not reach the vehicle's wheel arches and the area does not appear to be heavily flooded. Consistent with previous determinations in cases 0194/17, 0436/16, 0103/16 and 0467/15 the Board considered that the body of water did not appear to be unsafe and that this was not a depiction which would be against prevailing community standards on health and safety.

The Board then considered the brief scene where a woman was depicted in the passenger seat of a convertible, standing with her arms and head over the top of the



vehicle holding a piece of white material so that it flapped in the wind.

The Board noted it had previously considered a similar issue in case 0564/16, in which:

“The Board noted the complainant’s concerns over the depiction of a person hanging out of the sunroof while the car was in motion and therefore no seatbelt being worn. The Board noted that in all driving scenes where the passengers are seated the seatbelts are all being worn correctly. The Board noted the scene where a passenger is standing up through the sunroof and considered that it is clear a seatbelt is not being worn by this passenger. The Board noted Section 268 (3) of the Australian Road Rules (February 2012 version) which provides:

“A person must not travel in or on a motor vehicle with any part of the person’s body outside a window or door of the vehicle, unless the person is the driver of the vehicle and is giving a hand signal...” The Board noted that ‘window’ is defined in the Dictionary section of the Australian Road Rules as: “window, in relation to a vehicle, includes any sunroof fitted to the vehicle.”

The Board considered that the scene showing a person standing up in a moving vehicle with part of their body outside of the vehicle is clearly contrary to the Australian Road Rules and is therefore a breach of prevailing community standards on health and safety around traveling in a moving motor vehicle....The Board determined that the advertisement did breach Section 2.6 of the Code.”

The Board considered in the current advertisement the woman was shown standing in a convertible, not through a window, however considered that the woman is not wearing a seatbelt and that this is a depiction which is contrary to Australian Road Rules and is therefore a breach of prevailing community standards on health and safety around traveling in a moving motor vehicle.

The Board determined this advertisement did breach section 2.6 of the Code and the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

We are already in the process of rectifying the scene in question, it will be removed and replaced with other footage.

Our business has the utmost pride and integrity to ensure that health and safety is at



the highest possible standard and although the footage was filmed under safe and controlled conditions as mentioned in the advertisement the scene has been removed as we do not want to be in breach and wish to fully abide by the Code.