



Case Report

1	Case Number	0090/15
2	Advertiser	RB Sellars
3	Product	Clothing
4	Type of Advertisement / media	Print
5	Date of Determination	25/03/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

Sale Catalogue promoting mens Swim Shorts. Photograph of 3 adult males jumping into a water hole. One of the men is in a backflip position upside down.

THE COMPLAINT

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

Page 14 features 3 males jumping off a rock face into water. They are placing themselves in a high high high risk situation and are portrayed as an attractive thing to participate in whilst wearing the advertised garments. One male is flipped upside down. This is encouraging for young people to go out and replicate. That it is cool to place themselves in an dangerous situation.

THE ADVERTISER'S RESPONSE

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

*We refer to your letter dated 26th February and the associated complaint to one of our print advertisements. In response to the complaint we confirm the following;
Firstly from the outset, as a business we do not promote, condone or support dangerous*

behaviour. On the contrary, we are quite active in rural communities throughout Australia, supporting charities, clubs and associations for adults and children alike. The advertisement in question was used to promote our range of Swim Shorts in the Summer Sale Catalogue. It depicts 3 adult males swimming at a waterhole, and in this instance jumping into the water which is the type of activity you would do when wearing swim shorts. There is no associated script or CAD reference as the ad was not used for television or radio. There is no advertising agency as we produce all of our catalogues in-house.

Comments relating to this advertisement:

By way of background, this photograph was taken as part of an 8 day photo shoot in and around El Questro Wilderness Park in the East Kimberley region of Western Australia. We were assisted throughout the shoot by experienced El Questro staff and Park Rangers who also acted as guides to several shoot locations.

The location of the swim short photo was Amaroo Falls that is open to the public and is described on the El Questro website as “A truly magical place, Amaroo Falls was discovered in the southeast of the property in April 2010. The falls range from knee-high falls to those of 45m in height, descending into pristine swimming holes...”.

We were accompanied by experienced Park Rangers to this location and the act depicted in the advertisement was supervised at all times. We did not contravene any park rules or pose any danger to the individuals concerned.

While we appreciate the nature of the complaint that has been raised, it is fanciful to suggest that our advertisement in any way promotes or encourages any other individual to replicate what is depicted. Similarly, it does not contravene any prevailing community standards of health and safety - it is certainly an activity that can readily be seen on any Summer’s day, at any public beach, pool, lake, river and indeed swimming hole.

By stark contrast to the complaint raised, we view our advertisement as promoting mateship, enjoying outdoor activities, fitness and of course looking great in your swim shorts while you are doing it.

We take a great deal of pride in the images that we present to our customers, and go to a lot of effort to ensure that we are prepared and organised to manage the health and safety needs of all staff, models and other parties.

Our catalogues have won several awards at The Australian Catalogue Awards, and while this may be irrelevant to the complaint raised, it certainly highlights that we are recognised in the industry for the quality of what we produce.

Please accept our thanks for your consideration of the above points; we are certain that our common-sense approach to our advertising will also be reflected in how you address this complaint.

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 concern that the advertisement features an image of young men jumping from a rock face into water that is dangerous and could encourage others to attempt the same action.

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 the advertisement features swim shorts and other clothing items for sale. Next to the swim shorts is a picture of three young men jumping from a rock face. One of the men is upside down in a backflip position. The text reads “quick dry swim shorts.”

The Board noted the complainant’s concern that the advertisement suggests this is a ‘cool’ thing to do and that others may copy.

The Board noted the advertiser’s response that while taking the photos for the advertisement the group was accompanied by experienced Park Rangers to this location and the act depicted in the advertisement was supervised at all times. The advertiser stated that they did not contravene any park rules or pose any danger to the individuals concerned.

The Board noted the photo is intended to show the swim shorts and to highlight the type of fun you can have in and around the water.

The Board acknowledged that there is significant community concern regarding about entering any body of water without checking for dangers and assessing the risks of such activity. A minority of the Board felt that the depiction was showing a potentially dangerous activity and that the man in a backflip position in particular was in a high risk position that could cause serious injury.

The Board noted that it had previously considered cases where people were diving or jumping into bodies of water without a clear awareness of what is beneath (ref: 0355/12 and 0379/14).

In both of these mentioned cases, the Board noted that there was nothing in the advertisements to suggest that the area had not been assessed for risk etc before entering the water.

Similar in this case, the Board noted the advertisers advice that the waterhole was well known to rangers and the location was safe to swim in. The majority of the Board considered that the placement of the image in a clothing catalogue was not likely to draw the attention of young daredevils to the image and not likely to encourage copying behaviour.

The Board agreed that as the image was static it did not emphasise a high thrill level and considered that the advertisement did not depict, encourage or condone behaviour contrary to prevailing community standards on health and safety and 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 complaint.