



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0101/11</b>
<b>2</b>	<b>Advertiser</b>	<b>Parmalat Australia Ltd</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>13/04/2011</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.6 - Health and Safety within prevailing Community Standards

### DESCRIPTION OF THE ADVERTISEMENT

A man in his 20s is in a factory. He grabs a helmet and a set of keys, peeks around to check that nobody is watching then heads towards a forklift. ICE BREAK bottles move along the production line beside him. He uses the forklift to pick up a pallet of ICE BREAK, removes a piece of false flooring and drops two bottles of ICE BREAK through the hole to a ute waiting below, then drives off with the remainder of the pallet of ICE BREAK and is pursued by the ute.

### THE COMPLAINT

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

*It promotes and glorifies dangerous driving, speeding, "drifting" and other forms of reckless driving. Their previous ad (with the Ute reversing at speed to steal from the back of a moving truck) also did this so it seems to be a running theme. This ad does the opposite of the RTA campaigns for safe driving.*

### THE ADVERTISER'S RESPONSE

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

*The television advertisement in question promotes Parmalat's top selling iced coffee, Ice Break which has a target market of males aged between 18-29. The advertisement was launched in October 2010 and has aired on television, as well as in cinemas and online (YouTube and Facebook) over the past six-month period.*

*Parmalat refutes the claims that the advertisement "promotes and glorifies dangerous driving, speeding, drifting and other forms of reckless driving", as the advertisement is clearly fanciful in nature and the theme of the overall advertisement is "unbelievable" action. We were mindful of previous concerns raised around Ice Break's previous commercial Back 'er up, and designed and produced the new commercial with these concerns in mind. CAD was consulted for pre-advice in pre-production, the offline was submitted for comment prior to the completion, and then again when the TVC was complete. Pre-advice indicated that the TVC would most likely attract a "W" rating. The completed advertisement received a CAD rating of W in October 2010. The commercial complied with the W classification criteria in Section 2, Appendix 4 of the Code of Practice.*

*The advertisement was designed to ensure that the driving scenes were clearly not shot on public roads nor were portraying a public road. Instead the scene was purposefully set in a narrow tunnel with a flat base that was drivable. The production design also ensured that we had no dressing that could suggest that the flat bottom tunnel was a road, had ever been a road, in fact was never used for vehicle access, nor had any pedestrian access. The propping in the tunnel of old paint cans, metal shelving etc convey that this is a derelict storage area, not a working road.*

*The driver was portrayed as driving with precision and focus, not "reckless speed". There's no speedometer or tachometer featured in the commercial and at no time within the filming of the commercial did the vehicle exceed 40km / h. With regards to the "drifting" comment, once again we ensured that this section was clearly not on a public road, but rather on private property. The car does not drift but in executing the right hand turn did throw up some dust on the day, which was unavoidable and does leave a trail behind the car.*

## **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 promotes and glorifies dangerous driving. The Board noted previous advertisements 552/09 and 553/09 from this advertiser which also pictured people attempting to steal the product but one of the thieves keeping the product to himself.

The Board noted the advertiser's response and viewed the advertisement. The Board noted that the car is driven through a tunnel at speed and then is depicted doing 'drifts' and driving at high speed as it gives chase to the man on a forklift.

The Board considered that the actions in the advertisement are clearly exaggerated and are a movie style depiction of people attempting to steal the advertised product. The Board noted that the driving depicted in the advertisement was not on public roads – only in what appeared to be business premises or underground (not a public tunnel). The Board considered that the advertisement was exaggerated and unrealistic and had a very strong fantasy or film like context. The Board considered that the unrealistic tone of the advertisement was not likely to encourage dangerous behaviour or condone illegal activity (including stealing). Accordingly the Board determined that the advertisement did not depict material contrary to prevailing community standards on health and safety.

The Board determined that the material within the advertisement did not breach section 2.6 of the Code on these or any other grounds and dismissed the complaints.