



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0269/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Car Safe</b>
<b>3</b>	<b>Product</b>	<b>Community Awareness</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Print</b>
<b>5</b>	<b>Date of Determination</b>	<b>11/07/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheld - Not Modified or Discontinued</b>

### ISSUES RAISED

2.6 - Health and Safety      Unsafe behavior

### DESCRIPTION OF THE ADVERTISEMENT

Image of a man riding a bicycle with a female passenger sat behind him. They are wearing helmets and the text reads, "Imagine life without your car...always remove valuables when parked."

At the bottom of the advertisement it reads, "Carsafe.com.au. Help stop car theft. A message from Car-Safe and your local council."

### THE COMPLAINT

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

- 1. The advertisement shows a person carrying a second person on the back on a bicycle which is illegal.*
- 2. The slogan says "Imagine life without your car..." with a person then shown riding a bike while carrying a person on the back. Denigration of cycling and cyclists.*

### THE ADVERTISER'S RESPONSE

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

*Thank you for your email about a consumer complaint lodged in respect of a local newspaper advertisement lodged by one of our local government partners using an NMVTRC template depicting a satirical photographic image of a cyclist and pillion passenger.*

*The image in question does not promote the behavior claimed by the complainant. It is in fact clearly conveying the behaviour as something you wouldn't want to do. It is also so obviously satirical in its nature that a reasonable member of the community would see it as such, which we consider renders the complainant's claim as inherently frivolous.*

*We do not propose to take any further action in relation to this matter.*

## **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 portrays an example of unsafe cycling behavior and is denigrating in its comments regarding cyclists.

The Board reviewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement was in breach of 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 shows a male riding a bike with a female passenger behind him. The text next to the image reads: “Imagine life without your car...always remove valuables when parked.”

The Board noted the advertiser’s response that the image is intended to be a satirical photograph of a cyclist and pillion passenger promoting an awareness of car theft and being conscious of protecting valuables.

The Board noted that the Australian Road Rules – February 2009 version, Section 246 – Carrying people on a bicycle state that:

- 1) The rider of a bicycle must not carry more persons on the bicycle than the bicycle is designed to carry. Example A single-seat bicycle with a child’s seat attached is designed to carry 2 people, 1 on the bicycle seat and 1 on the attached child’s seat.
- 2) A passenger on a bicycle that is moving, or is stationary but not parked, must sit in the seat designed for the passenger.
- 3) The rider of a bicycle must not ride with a passenger unless the passenger complies with subrule (2).

The Board considered that the girl on the back of the bicycle in the advertisement is not sitting in an approved seat and is in fact sitting on the parcel rack of the bike.

The Board then considered that there is a very serious and genuine community concern regarding road safety issues and issues of cycle safety. The Board considered that although the couple are wearing helmets, the representation of the woman in clothing that may be considered inappropriate for cycling is of great concern. The Board noted that her position on the bike, her open footwear and lightweight dress could easily be caught in the bicycle spokes, chain or brake causing an accident and injury to both parties.

The Board also noted that there was a greater risk for incident or accident with other vehicles and road users due to the inappropriate seating of the passenger.

The Board considered that the connection between the promotion of a community awareness of theft prevention and the relationship to then having to use a bike as alternative transport was not evident and that the impact of the important message was lost.

Based on the above, the Board determined that the advertisement did depict material contrary to prevailing community standards on health and safety and did breach Section 2.6 of the Code.

Finding that the advertisement did breach section 2.6 of the Code, the Board upheld the complaint.

#### **ADVERTISER RESPONSE TO DETERMINATION**

We have nothing to add to our previous correspondence.