



Case Report

1	Case Number	0289/16
2	Advertiser	Ultra Tune Australia
3	Product	Automotive
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	13/07/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens on a car with its roof down driving in to an automatic car wash. The female passenger has her arm raised in the air and is taking a selfie of herself and the female driver. After taking the photo she brings the phone down to check it and we see the driver also admiring the photo whilst the car continues to move forwards. The passenger places the mobile phone on a cradle on the dashboard and as the camera pans down we see another mobile device as well as numerous charging cables which start shorting out: buzzing is heard and sparks are seen. We then see the car's battery warning light flashing and the women notice that the roof of the car is not able to come up because of the lack of electrical power. The car wash starts and we see the women sprayed with water as they scream and wave their hands about. A male voice over says, "Avoid unexpected situations. Get your battery checked at Ultra Tune" and we see the car exiting the car wash filled with bubbles.

THE COMPLAINT

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

I am very offended by all the Ultra Tune ads because of the women chosen, the way they are allowed to seem unintelligent and always in need of a man to save them. They don't seem capable of saving themselves. This is a terrible example to young girls, who see these ads as

they are aired during their viewing times.

There we never be equal opportunity for women if this advertising can pass standards. So much effort goes into gender equity across the globe and yet this is somehow okay? Our country has no excuse not to be a leader in gender equity. Media standards cannot let us down like this. Not only was the ad on prime time with my daughter watching it was a sponsor of the Channel Nine news. This is my first complaint about anything. I am dumbfounded. We can avoid Ultra Tune. We can't avoid these messages about women as stupid and that is unacceptable in 2016.

I find the ad offensive to women. The two women are portrayed as morons.

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 email letter attaching complaints concerning Ultra Tune's advertisement broadcasted on Channel 9.

The advertisement in question is a 30 second advertisement with two female actors in a motor vehicle that drives into a car wash. The 30-second advertisement can be viewed at the following link:

<https://www.youtube.com/watch?v=4EQ-a160511f6Pb2o>.

The relevant CAD reference numbers are P32SCROA and they have a PG rating.

In relation to the broadcasts, we advise that our media buyer is Frontier Media.

We note the issues raised by your letter (2.1, 2.2, 2.3 & 2.6 of the Code) and respond as follows:

We refer to the Boards previous decision in Case 0236/16 where the Board dismissed the complaints for this same advertisement being broadcasted on Foxtel. This is the same advertisement.

2.1 Discrimination or Vilification Gender

Section 2.1 of the Code states that "Advertising or Marketing Communications shall not portray people 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 Practice Note relevant to this matter and in relation to Section 2.1, which describes types of behaviour and restricts depictions of those types of behaviour against people within certain groups. The types of behaviour are: discrimination, unfair or less favourable treatment, vilification, humiliation, intimidation, incites hatred, contempt or ridicule.

In our respectful submission, the advertisement does not show any form of discrimination or unfair or less favourable treatment against women.

Previous findings

As mentioned above, we refer to the Board's previous decision in Case 0236/16 where the Board dismissed the complaints for this same advertisement being broadcasted on Foxtel. This is the same advertisement.

We refer to the Board's previous decision in Case 0176/16 and note the findings that:

1. 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.

2. the advertisement depicts women in a manner which suggests they do not get their car serviced, are unintelligent and unable to recognise a dangerous situation and the Board considered that the advertisement presents women as ridiculous. The Board considered that the stereotypical depiction of women being unable to look after their car perpetuates the depiction of women being ridiculous in relation to cars and that this incites ridicule towards their behaviour and women in general.

In the current advertisement, the women do not sit passively, with blank faces, nor are they unaware of the issue created in this 'unexpected situation' (i.e. the theme of the ad series). The women cannot be said, therefore, to be portrayed in an unintelligent or stereotypically helpless depiction.

Furthermore, the fact that the car breaks down cannot form a depiction of women as unintelligent or unable to recognise a dangerous situation. The irony is that, in any iteration of this hyper-realistic situation, the unreasonable inference could be that the specific class of persons (i.e. gender, sexual orientation, race, etc.) is somehow being portrayed as "ridiculous...and...incites toward their behaviour". Any common-sense viewing of this advertisement is that the driver and passenger have broken down in a car wash – the fact that they are female bears no consequence of the overall message of the advertisement.

The Macquarie Dictionary definition of incite is "to urge on; stimulate or prompt to action".

The Macquarie Dictionary definition of ridicule is "1. Words or actions intended to excite contemptuous laughter at a person or thing; 2. To deride".

Clearly, there is no act in this advertisement that is intended to either excite contemptuous laughter (i.e. laugh at rather than with the characters), or urge on, stimulate or prompt to action hatred contempt or ridicule for women. Any such finding could naturally be the result of an agenda driven biased view, however this should not be said to be the view of the reasonable general public.

2.2 Objectification Exploitative and degrading – women

Section 2.2 of the Code states that "Advertising or marketing communications should not

employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.”

“Exploit” is defined in the Oxford dictionary as making use of a situation in a way that is underhanded or unfair.

“Degrading” is defined in the Oxford dictionary as either diminishing self-respect or humiliating.

We refute the suggestion that the advertisements in any way exploits or degrades women. The advertisement neither diminishes the actors’ self-respect or humiliates them in any way. Furthermore, the advertisement does not make use of the car wash situation in way that is underhanded or unfair. The advertisement is a comical portrayal of a hyper realistic situation that could occur, if a driver failed to properly service their vehicle. That the actors are female is immaterial to the underlying message of the advertisement being conveyed.

We refer to the Board’s previous decision in complaint reference number 0020/16 and 0021/16 that:

“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 also noted the complainants’ concerns over the way in which the women are depicted with fake breasts, plumped up lips and shiny, plastic looking faces. 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.”

Furthermore, at no time, is the emphasis or focus of the advertisement on the actor’s bodies or their clothing. The advertisement and actors are not sexualised in any material way.

We refute that the women are portrayed as being unintelligent or stupid.

(i) It is a common occurrence for people to take “selfie” photographs regardless of their intelligence. The Internet and mainstream media contains many examples of such photographs.

(ii) The advertisement clearly show that the actors are consciously aware of the problem (i.e. that the electrically operated roof doesn’t work) and acknowledge the problem. There is clear recognition that the vehicle and actors will be drenched in water from the car wash.

(iii) Once in the car wash, there is very little (from a practical perspective) that either any person could do, irrespective of gender or ability. We submit that the advertisement does not depict the women as neither docile nor unintelligent - they are reacting as any person would in that situation (albeit that the advertisement provides a hyper-realistic and comical setting).

(iv) There is no ridicule of the women but rather, in line with the humour of the advertisement, they are placed in a ridiculous and ‘unexpected situation’, which is the theme of the advertisement (i.e. had they had the car serviced by Ultra Tune, this situation would not have occurred).

We also submit that the advertisement, like all in our series, has been created in an ‘over the top’ and comical manner. For example, the electrical wiring in the central console is clearly not realistic with clearly artificial wiring sparks and smoke. The advertisement in no way suggests that this situation occurred because the occupants are female, nor does it suggest that this would not be possible if the occupants were male – it is clearly a comical depiction of an outrageous scenario that could occur (although unlikely), if a person was to fail to service their car adequately.

The advertisement has a PG rating classification.

2.6 Health and Safety Unsafe behaviour

2.6 Health and Safety within prevailing Community Standards

Section 2.6 of the Code states that “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.”

We note that the ASB letter of 22 June 2016 seeks a response from us in respect of Section 2.6 of the Code without providing particulars.

We refer to the decision of the Board in Case 0236/16 which found that the advertisement (which is the same as advertisement the subject matter of this response) did not depict material contrary to Prevailing Community Standards.

We reiterate our response in Case 0236/16:

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

(b) The vehicle was a convertible and was shown pulling into the entrance of an automatic car wash at slow speeds and came to a complete stop.

(c) The passenger’s arm was extended above her head in a safe position. The vehicle was on private property and not on the open public road (no road laws were infringed).

(d) The driver was not holding nor controlling the mobile phone at any time.

(e) The “selfie” photograph was taken by the passenger whilst the vehicle was in (and under the control of) the automatic car wash.

(f) The style of the advertisement is a staged, exaggerated and unrealistic situation designed for humour, as clearly portrayed by the exaggerated and unrealistic electrical wiring (which would at most only be delivering 5 volts and not main electricity), sparks, smoke, reactions of the women to the roof not deploying, the women going through the automatic car wash and the soap bubble filled vehicle cabin at the end of the wash cycle.

(g) The humour of the advertisement was presented in a staged exaggerated and unrealistic situation that provides an overall impression of humour, which would not be able to replicated by the boarder community.

Notwithstanding the hyper-realistic and “over the top” situation in this advertisement, such an unexpected situation can and has occurred in the real world. We refer to the nine.com.au article (entitled “Mother swears like a sailor as sunroof leaks during car wash”) of a mother taking her vehicle through an automatic car wash when “unexpectedly” the sunroof leaks water. The article can be found at <http://pickle.nine.com.au/2016/06/29/11/46/woman-has-car-wash-fail> and <https://youtu.be/WP9pXIAa6aI>. Whilst the cause of this real world occurrence is different to our advertisement, it is clear that:

(a) There is no suggestion that the women in the video are unintelligent or stupid or vilified in any manner;

(b) The female occupants were not aware of the potential fault with their vehicle; and

(c) Once the water starts leaking there is nothing they can do to prevent or avoid water leaking in the vehicle.

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 complainants’ concerns that the advertisement depicts women as stupid sex objects and is demeaning and inappropriate.

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 this television advertisement shows two women going through a car wash in a convertible and being unable to put the roof down as the battery has failed as a result of the numerous devices they are charging.

The Board noted it had previously dismissed complaints about the same advertisement on Pay television in case 0236/16 where:

“The Board noted the Practice Note relevant to this matter and in relation to Section 2.1

which describes types of behaviour and restricts depictions of those types of behaviour against people within certain groups. The types of behaviour are:

- Discrimination – unfair or less favourable treatment
- Vilification – humiliates, intimidates, incites hatred, contempt or ridicule.

The Board noted the Macquarie Dictionary definition of incite:

- “to urge on; stimulate or prompt to action”.

The Board noted it had previously upheld similar complaints about advertisements by the same advertiser where the same women were presented in an unexpected situation. In those cases (0020/16, 0175/16):

“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 Ultratune 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 ridicules people of a certain group, namely women, in the way in which the women are depicted. Specifically, the Board considered that the overall suggestion in the advertisement is that these women can’t think: their car slowly comes to a stop and their reaction is to look as though they have not fully registered what has happened and take too long to realise where they have broken down and the consequence of that.”

The Board noted it had also dismissed complaints about an advertisement by the same advertiser showing the two women almost driving over a cliff in case 0040/16 where:

“...the Board considered that the women are shown making a not uncommon accident then actively trying to save themselves. The Board noted it was the woman’s fault that the car ended up balancing precariously on the edge of a cliff but considered that selecting the incorrect gear is not an unlikely occurrence even if the consequences in the advertisement are absurd. The Board accepted the intent of the advertisement is to show an unrealistic situation. The Board noted in the current advertisement that although the women do not speak they do have the presence of mind to realise that they are in danger and use an App to summon a rescue party.”

In the current advertisement the Board noted that although it is the women’s fault that the battery dies – the suggestion being that they have overloaded the battery with charging cables, and that they have not had their car serviced regularly – the women are shown to immediately recognise that there is a problem with their car even though they are powerless to do anything about it.

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 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."

Consistent with its previous determination the Board considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender.

The Board determined that the advertisement did not 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 complainants' concerns 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 however the Board considered that this use of women is not itself a breach of the Code. The Board noted that the clothing worn by the women is not clear as the focus is on the car and the women's heads. The Board noted that in some scenes we can see the top of the women's breasts but considered that their breasts are not the focus of the advertisement.

The Board considered that the overall manner in which the women are depicted in the advertisement does not use their sexual appeal in a manner that is exploitative or 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 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 as the women approach the car wash we can see the passenger holding her arm up to take a photo of herself and the driver. The Board noted that the woman's arm is briefly shown to be outside the boundary of the vehicle but considered that this scene is very brief and the vehicle is clearly about to enter a car wash and is not being driven on a public road. The Board noted that we see the driver look to the camera and smile for the photo and considered that although the vehicle is still moving the vehicle is on the automated rollers carrying the vehicle through the car wash at this point therefore the driver is not being negligent by not looking where the car is going.

The Board noted the unrealistic depiction of overloading the vehicle's 12 volt auxiliary power. The Board noted that overloading power boards is a serious health and safety concern in the community and that it had previously upheld complaints where this type of activity was depicted in an advertisement (481/10, 0104/15). The Board noted however that unlike the previously upheld advertisements where the activities portrayed could be copied by members of the community and could result in serious bodily harm the current advertisement shows an activity unlikely to be copied by the community and even if it were it would be unlikely to result in harm as the electricity source is a 12 volt car battery and not the mains electricity. The Board noted the overall tone of the advertisement and considered that the women's actions in overloading their auxiliary power circuit is clearly presented in a negative light and would be unlikely to encourage copycat behaviour.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards.

The Board determined that the advertisement 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 complaints.