



Ad Standards Community Panel
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Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0289/18
2	Advertiser	Ultra Tune Australia
3	Product	Automotive
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	11/07/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Degrading - women
- 2.2 - Objectification Exploitative - women
- 2.3 - Violence Violence
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

the television advertisement features two women driving a car when it stalls and stops. The driver tries to start the engine and smoke is seen coming from the bonnet. The women look at each other and then react with alarm as they hear and see a train coming towards them. The women scream and are seen undoing their seatbelts as the train approaches. A voice over states "avoid unexpected situations, get your car serviced at Ultra Tune" and the women are seen walking away from the smoking wreckage.

THE COMPLAINT

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



This old sexist and offensive ad portrays women as stupid bimbos - adding to the potential issues of violence against women where women are seen and valued as sexual objects.

THE ADVERTISER'S RESPONSE

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

Advertisement Complaint References 0289/18

We refer to your email letter of 13 June 2018 attaching an email complaint concerning Ultra Tune Australia Ltd's further amended train wreck advertisement broadcast on free-to-air (Channel 7).

The advertisement in question is a 30 second further amended version of the trainwreck advertisement. The advertisements can be viewed at the following link:

https://ultratunehomy.sharepoint.com/:v/g/person/albertc_team_ultratune_com_au/Ee-gH8fFiZdDpUePRyFMDfIBVOziD3GcLbelr6wwc7Savg?e=303fU5

The advertisement's CAD reference number is P3IV2ROA.

Preliminary comments

The advertisement is an amended version of the original train wreck advertisements ("Original Advertisement") created in 2016. The Advertising Standards Bureau considered the Original Advertisement (case number 0020/16) where it upheld the complaints on the basis of a breach of 2.1 of the then Code.

The advertisement amendments include, inter alia, scene editing, and removal all reference to train tracks until the train approaches when the actors are shown to immediately remove their seatbelts to exit the vehicle.

Detailed responses

We note the issues raised by your letter (sections 2.1, 2.2, 2.3, 2.4, 2.6 and 2.7 of the Code) and respond as follows:

2.1 Discrimination or Vilification Gender

Section 2.1 of the Code provides:



“Advertising or Marketing Communication 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 elaborates on the above by saying:

Discrimination - unfair or less favourable treatment;

Vilification - humiliation, intimidation, incites hatred, contempt or ridicule.

In case 0020/16, the Board, inter alia, stated that:

“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.”

In case 0175/16, the Board considered a differently amended version of the Original Advertisement. The Board upheld the complaints in that case under this section.

The amendments contained in this advertisement have been designed to specifically address the Board’s determinations in 0020/16 and 0175/16; namely:

(a) Upon the vehicle breaking down, the actors shown to actively and thoughtfully investigate cause of the break down and to restart the vehicle. Although some perplexity is displayed (which is a normal reaction), they are shown to be cognisant of the vehicle stopping (and situation), looking they actively and thoughtfully looking around the vehicle for the cause of the breakdown whilst attempting to restart the vehicle. Those actions by the women are better than normal of any person in a similar situation and devoid of any ridicule.

(b) After the initial shock of hearing the oncoming train, the actors have the presence of mind to take immediate and positive action to escape the vehicle, thereby clearly showing the viewer their self-empowerment and that their escape is not the result of luck.

By these amendments and in particular the amendment referred at (b), it is submitted



this advertisement does not ridicule nor vilify women. We also refer to case number 040/16 where the Board dismissed the complaints and submit that the these amendments clearly show the actors become aware of their situation and are able to rescue themselves.

In both cases 0020/16 and 175/16, the Board raised and considered other concerns under section 2.1 but found that they did not breach this section. We refer to and reply upon the determinations of the Board on those concerns in response.

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 or degrading of any individual or group of people.”

I submit that in cases 020/16 and 175/16 the Board considered and separately determined that the advertisement were neither “exploitative” nor “degrading”.

a. The Board did determine the advertisement was not “exploitative” as consistent with previous case 093/12 the women’s clothing “is not an unusual style of clothing for women to wear on a night out and the women’s physical features are not the focus of the advertisement”.

b. The Board also determined that the advertisements was not “degrading” as “while the women are portrayed as sexy, they are also portrayed as confident, and in the Board’s view the overall manner in which the women are depicted in the advertisement does not use their sexual appeal in a manner that is degrading”. It is submitted this is further enhanced with the new amendments made.

2.3 Violence - violence and Violence – causes alarm and distress

Section 2.3 of the Code states that:

“Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised”.

We refer to the Board’s previous decisions in cases 0020/16 and 0175/16 where the Board dismissed the complaints relating to this section. We refer to and reply upon the determinations of the Board on those concerns in response.

2.4 Sex/sexuality/nudity S/S/N - general

Section 2.4 of the Code provides:

“Advertising or Marketing Communications shall treat sex, sexuality and nudity with



sensitivity to the relevant audience”.

We refer to the Board’s previous decisions in cases 0020/16 and 0175/16 where the Board dismissed the complaints relating to this section. We refer to and reply upon the determinations of the Board on those concerns in response.

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 refer to the Board’s previous decisions in cases 0020/16 and 0175/16 where the Board dismissed the complaints relating to this section. We refer to and reply upon the determinations of the Board on those concerns in response.

2.7 Clearly Distinguishable Advertising

Section 2.7 of the Code states that

“Advertising or Marketing Communications shall be clearly distinguishable as such to the relevant audience.”.

The complaints do not raise any issue relating to this section. We submit that the advertisements are clearly advertising.

Conclusion

For the reasons above, we do not believe the advertisement breaches the Code in any way.

THE DETERMINATION

The Ad Standards Community Panel (“Panel”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Panel noted the complainant’s concerns that the advertisement objectified women and is sexist.

The Panel viewed the advertisement and noted the advertiser’s response.

The Panel noted that the television advertisement features two women driving a car when it stalls and stops. The driver tries to start the engine and smoke is seen coming



from the bonnet. The women look at each other and then react with alarm as they hear and see a train coming towards them. The women scream and are seen undoing their seatbelts as the train approaches. A voice over states “avoid unexpected situations, get your car serviced at Ultra Tune” and the women are seen walking away from the smoking wreckage.

The Panel first 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 Panel noted the Practice Note to Section 2.1 of the Code which provides the following definitions:

“Discrimination – unfair or less favourable treatment

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule”.

The Panel noted the complainant’s concerns that the advertisement is sexist and portrays women as stupid bimbos.

The Panel noted it had considered and upheld complaints about two previous versions of this advertisement in cases 0020/16 and 0176/16, and that the advertisement had been further modified in line with the Panel’s decision.

In Case 0020/16, after an Independent Review:

“Overall the Board considered that the advertisement presents women as ridiculous suggesting that they don’t look after their cars, react passively to breaking down, and are unaware of their surroundings. The Board considered that the advertisement does encourage ridicule of women and therefore does portray or depict material in a manner which is vilifying of a person or section of the community on account of gender.”

In Case 0176/16:

“The Board viewed the modified advertisement and considered that whilst some very minor changes have been made – notably at the 10 second mark where in the original version the two women look at one another but in the modified version they don’t – in the Board’s view these changes do not alter the overall impression given by the advertisement in that the women appear unintelligent and until the last minute are completely unaware of their surroundings or the danger they are in.”

The Panel noted the advertiser’s response that further amendments have been made to the advertisement designed to address the Panel’s determinations in 0020/16 and 0175/16, namely the women in the advertisement have been depicted as actively



attempting to investigate what is wrong with the vehicle and that after the initial shock of hearing an oncoming train the women take immediate action to escape.

The minority of the Panel considered that the overall impression of the advertisement plays on the negative gender stereotype that women are bad drivers and are unable to look after their own cars.

Further, the minority of the Panel considered that the women are shown to be completely unaware of their surroundings and do not notice that the car has stopped on a railway crossing. The Panel considered that the women's inability to notice their location further added to the overall negative impression of the women in the advertisement.

The minority of the Panel considered that the content of the advertisement continued to ridicule the women based on negative gender stereotypes, and that the modifications made to this advertisement were not sufficient to negate this.

The minority of the Panel considered that the modified version of the advertisement did vilify the women on account of their gender.

The majority of the Panel however noted that the situation that the women were involved in, the car breaking down with steam coming out of the bonnet, was a situation that could happen to anyone, regardless of gender.

The majority of the Panel considered that after the car breaks down the driver takes action to try and rectify the situation by turning the key and attempting to start the engine. The majority of the Panel noted that the car was not shown to be on the train tracks until the passenger hears the oncoming train and notices the light.

The majority of the Panel considered that until this point it is not evident that the women have broken down in an unsafe location, and considered that the actions of the women up until this point were reasonable and understandable in that situation.

The majority of the Panel noted that after the women notice the oncoming train they take immediate action to remove their seatbelts and leave the vehicle for safety.

The majority of the Panel considered that the women were shown taking action to save themselves immediately after the threat has been realised. The majority of the Panel considered that the women were shown as confident and in control, and were not shown in a way which discriminated against or vilified the women.

The Panel considered that the modified version of the advertisement did not breach Section 2.1 of the Code.



The Panel 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 or degrading of any individual or group of people.”

The Panel noted that this section of the Code had been updated since the previous version of the advertisement was considered.

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised. Degrading – lowering in character or quality a person or group of people.

The Panel noted the complainant’s concerns that the advertisement depicts the women as sexual objects.

The Panel noted the advertiser’s response that in case 0020/16 and 0175/16 the Panel had determined that the advertisement were neither exploitative nor degrading.

The Panel considered that throughout the advertisement the women were shown to be in control, and at the conclusion of the advertisement the women were shown walking purposefully away from the wreckage.

The Panel noted that the women are dressed consistently with the way some women dress and considered that their clothing choices were not unreasonable or inappropriate for driving and could not be considered exploitative.

The Panel noted that the advertisement is using the sexual appeal of the women, but that the advertisement does not depict the women as objects, unnecessarily or inappropriately focus on their body parts or lower them in character or quality.

The Panel acknowledged that some members of the community would prefer that women were not portrayed in advertisements in a way that takes unacceptable advantage of their sexual appeal, however considered that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of the women or women in general.

The Panel determined that the advertisement did not breach Section 2.2 of the Code.

The Panel considered whether the advertisement was in breach of Section 2.3 of the



Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Panel noted that in case 0020/16:

"The Board noted the complainants' concerns that the depiction of a car being hit by a train is distressing to those who have lost a loved one in a similar manner. The Board acknowledged that this scene could cause concern to some members of the community based on their own personal experience but considered that the moment of impact is not actually shown and in the Board's view the depiction of the women walking away from the aftermath lends an unrealistic air to this scenario. The Board considered that the advertisement depicts a suggestion of imminent danger which proves to be a lucky escape and is not a depiction of violence."

Consistent with the determination in case 0020/16 the Panel considered that the modified version of this advertisement did present a suggestion of danger, but not a depiction of violence.

The Panel determined considered that the advertisement did not present or portray violence and determined that the advertisement did not breach Section 2.3 of the Code.

The Panel considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience".

The Panel noted it had previously dismissed complaints about a previous version of this advertisement in case 0176/16 where:

"The Board noted that the women are wearing clothing consistent with going out for an evening and considered that while the women's cleavages are substantial the level of exposure is not excessive or inappropriate for evening wear.

The Board noted that the camera focuses on the women's reactions when they break down on the rail crossing and considered that the focus is on their faces and not their bodies.

The Board noted that when the women walk away from the aftermath of the train hitting their car they are shown to strut towards the camera. The Board noted that the women's actions are similar to the walking style of catwalk models and considered that their actions are confident, they are filmed from a distance which minimises the focus on particular parts of their bodies, and are not strongly sexualised."

Consistent with the determination in case 0176/16, the Panel considered that there is



no focus on the women's body parts, they are appropriately covered and they are not strongly sexualised.

The Panel noted that the advertisement had been rated 'PG' by CAD and considered that overall the advertisement depicted two women wearing revealing clothing but did so in a manner that minimised the sexually suggestive impact of the advertisement and in the Panel's view did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children viewing the television with parental guidance.

The Panel determined that the advertisement did not breach Section 2.4 of the Code.

The Panel 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 Panel considered that rail crossing safety is a genuine community concern but considered that in this instance the advertisement clearly depicts the women's actions as negative. The Panel noted that the voiceover enforces the negative connotation by describing the situation as an unexpected scenario which could have been avoided. The Panel noted that the women survive the implied accident between the train and the car and considered that their survival is not misleading or presenting an unsafe message because the scenario of the women being able to walk away from such an accident is clearly an unrealistic outcome.

The Panel considered that the advertisement did not encourage or condone members of the community to copy the women's actions with regards to the unsafe crossing of rail tracks.

The Panel considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety. The Panel determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on any other grounds, the Panel dismissed the complaint.

