



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0299/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Star Track</b>
<b>3</b>	<b>Product</b>	<b>Professional services</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Pay TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>08/08/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheld - Modified or Discontinued</b>

### ISSUES RAISED

2.6 - Health and Safety      Motor vehicle related

### DESCRIPTION OF THE ADVERTISEMENT

The advertisement shows how Star Track operates and we see parcels being sorted in a warehouse and trucks delivering the parcels. In one scene we see a young girl leaning out of the open window of a moving car to wave at someone. The tagline is 'Bigger. Better. Faster.'

### THE COMPLAINT

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

*I have recently viewed the latest advert for a company called 'Star Track Express' which shows a young girl driving along in a car as a passenger and hanging out of the passengers window in the front seat unrestrained.*

*My concern is other children may mimic things that he has seen on TV and this would be one that I hope they don't.*

### THE ADVERTISER'S RESPONSE

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

*In response to the complaint, StarTrack would like to make the following points in relation to the scene in the advertisement that is the subject of the complaint:*

- 1. The vehicle used in the advertisement is a 1968 model, which does not lend itself to modern seatbelts;*
- 2. Although it is hard to see when viewing the advertisement, the young girl is restrained by a lap-type seatbelt.*

*Notwithstanding these facts, StarTrack concedes that, although it was never intended, the very small part of the advertisement in question could reasonably be seen to give the impression of a young child being apparently unrestrained and being allowed to have a significant part of her body protrude from a moving motor vehicle.*

*StarTrack requests the Advertising Standards Bureau Board consider the abovementioned facts regarding the scene in question when reviewing this case.*

## **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 depicts a young girl with her body leaning out of a moving vehicle which is unsafe and could encourage children to mimic the behavior.

The Board viewed 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 scenes of how Star Track operates and parcels are seen being sorted in a warehouse and trucks delivering the parcels. In one scene a young girl is seen leaning out of the open window of a moving car to wave at someone. The tagline is ‘Bigger. Better. Faster.’

The Board noted the advertiser’s response that the child is restrained by a lap style seat belt that would be appropriate to the apparent age of the vehicle. The Board considered however, that it is almost impossible to tell if the belt was fastened or not and that even so, there was a significant portion of the girl’s torso that was protruding outside of the vehicle.

The Board considered that as the actions of the girl look as though she is enjoying herself and having fun, it is possible that the same actions or similar may be mimicked by other children.

The Board noted that clause 268(3) of the Australian Road Rules refers to how persons must travel in or on a motor vehicle. This clause states that “...A person must not travel in or on a motor vehicle with any

part of the person’s body outside a window or door of the vehicle....”

The Board noted that the road rules do not distinguish between whether or not the person is the driver or a passenger. The Board noted that the advertisement depicts a young girl in the vehicle with a significant part of her body outside of the vehicle and considered that the advertisement did breach the above clause.

The Board noted that community concern around vehicle safety and unsafe behavior in vehicles is paramount in the minds of the broader community and that the behavior of having a passenger lean outside of the vehicle as in this advertisement is contrary to prevailing community standards on health and safety and therefore the advertisement did breach Section 2.6 of the Code.

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 not breach the Code on other grounds, the Board upheld the complaint.

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

I wish to advise you that we have made the necessary arrangements to remove offending scene and republish the advertisement. StarTrack will release the new advertisement by 23 August 2012.