



Case Report

1	Case Number	0318/15
2	Advertiser	Marshall Batteries
3	Product	House Goods Services
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	12/08/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts the arrival of a middle aged gentleman coming home from work. He looks out into the back-yard to see a lady on a sun-lounge (attired) with Shane Warne. They are in an embrace. Man looks surprised then angry. Shane Warne runs and is chased by the man, however when he reaches his car to escape it doesn't start as the battery is flat. Shane telephones Marshall Batteries who attend and fix his battery in time for him to depart by the time the man runs onto the street.

THE COMPLAINT

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

Shane Warne was a fine cricketer and is an astute commentator of the game and I admire him for that. His off-field exploits are less than desirable. Marriages are under enough pressure in this country already without the assistance of this ad. Consider someone who is or has been through an unfaithful relationship. I imagine this would bring a lot of stress/pain/anger when they see this on screen and how it is shown as a great joke.

I find this very confronting and uncomfortable to watch. I am concerned as this was aired during the cricket and during breakfast TV, a time in which children may be viewing this advertisement. I also believe that this should be taken off air as it is indecent and somewhat semi-pornographic.

THE ADVERTISER'S RESPONSE

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

The advert was created with a strong comedic tone and whilst slightly risqué, the advertisement uses a significant level of humour.

The advertisement has been rated PG and only airs in PG timeslots further to its approval by the authority, and is therefore not aimed at children.

The scene by which is complained about is fleeting and all cast are fully clothed. It is our position that, and noting the comedic nature of it, there is nothing in the advertisement that would cause serious widespread offence and meets social responsibility. It also demonstrates how we can quickly jump to the wrong conclusions, which is part of the reason why we created a two part advertisement. The second advertisement (slightly amended for online use) shows an alternate version that explains how this situation eventuated. This advertisement can be found here: <https://www.youtube.com/watch?v=TxGIVYxnqlw>

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 features a couple in a sexual position and is not appropriate for viewing by children.

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

The Board then 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 Board noted the advertisement features a man (Shane Warne) and a woman on a deck chair outside of the woman’s home. They are in an embrace and the woman is giggling when her husband arrives to find them in this predicament. The husband chases after Shane whose car won’t start because the battery is flat. The Marshall Battery man arrives and replaces the battery so that Shane can then leave.

The Board noted that the advertisement is intended to be a humorous play on the infamous nature and reputation of Shane Warne in the media and with women which would be well known in the community.

The Board noted that both Shane and the woman are fully clothed and considered that their position on the lounge is a precarious one to be caught in as the woman is clearly married.

The Board agreed that the insinuation is that the couple were likely to engage in some level of sexual activity had the woman’s husband not arrived home.

The Board noted that the following scenes are comedic and farcical in nature and considered that overall the ridiculous nature of the advertisement and the situation does not amount to a depiction that is overtly sexual and the advertisement does not feature any nudity or sexualised material.

The Board noted that advertisement was rated PG by CAD and noted that it had been aired in the appropriate timeslot for the rating.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity

with sensitivity to the relevant audience and did not breach Section 2.4 of the Code. Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.