



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0321/16</b>
<b>2</b>	<b>Advertiser</b>	<b>Brand Developers</b>
<b>3</b>	<b>Product</b>	<b>Hardware/Machinery</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>10/08/2016</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

The advertisement is a 28 minute 30 second advertisement for the Renovator Transforma Ladder. The advert demonstrates in a number of ways the different configurations this multi-purpose ladder has along with its many uses. It also explains to the viewer how they can buy the Renovator Transforma Ladder. In one scene we see a man walking under an SUV which is balanced on the ladder.

## THE COMPLAINT

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

*I was absolutely shocked to see the tv salesman walk under an SUV while it was resting on a ladder. Possibly one of the most dangerous things I have ever seen. Being in the construction industry myself, OH&S is a huge part of my every day work, and seeing this ad on tv made me very frustrated as it is a clear breach good safety practice, and could result in misleading, unsafe practice.*

## THE ADVERTISER'S RESPONSE

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

*You have referred us to this complaint under Section 2 of the AANA Advertiser Code of Ethics the relevant subsection being 2.6 - Health and Safety.*

*2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.*

*Our response is that the advertisement for this product [Transforma Ladder 35] is not in breach of Section 2 of the AANA Advertiser Code of Ethics with regard to 2.6 - Health and Safety. The Transforma Ladder 35 is a DIY home tool, specifically an alloy ladder capable of “transforming” into more than 20 different types of ladder for home use.*

*The complainant has failed to acknowledge key elements of the advertisement. His complaint seems centred on his opinion that a demonstration in the advertisement (the “SUV-on-Ladder” demonstration) is dangerous... based on “OH&S” being “...part of (his) every day work”... “Possibly one of the most dangerous things I have ever seen.”*

*Although an element of controlled and mitigated risk was present in the setup of the demonstration, all elements of the demonstration were fully tested well before any filming began. The assembled professional crew tested the ladder under extreme weight-bearing conditions in the days leading up to the SUV shoot. They confirmed that when the ladder held 1.5 tonne, it continued to hold that weight until significantly more was applied.*

*This ability is a result of the Transforma Ladder’s welded aluminium alloy construction, with AS/NZS safety testing and our own manufacturer testing confirming that the welds are stronger than the alloy body of the ladder. So any “fail” of the ladder is catastrophic. This means when the ladder reaches its weight bearing limit in A-frame configuration, the legs will buckle and collapse immediately... there is no delay. We can confirm that in both the rehearsal and the demonstration, the Transforma Ladder 35 consistently and comfortably held the 1.5 tonne weight without failure for an extended period of time. The only point of true risk involved in this entire demonstration was during the setup, when a misalignment or gust of wind during the placement of the vehicle could cause an overbalance – even then, the danger involved was only to the vehicle itself.*

*Please note – any “playing up” of this apparent danger in the commercial is only for dramatic effect, and this form of puffery is accepted by the ACCC. The vehicle was unmanned, and as clearly shown in the advertisement, only informed and trained professionals were within the safety perimeter markings during setup.*

*“... it is a clear breach good safety practice... ”*

*The demonstration was filmed under the full supervision of a Registered Safety Officer supplied by the firm Lifeguard and Safety. A regulation safety perimeter was marked out before filming began (cones and markings are clearly visible in the commercial) and the Safety Officer was present on site for the entire filming of the demonstration. There were no breaches of good safety practice.*

*“... and could result in misleading, unsafe practice.”*

*We are unsure what the complainant means in using the term “misleading”. We can confirm that the commercial features a demonstration (filmed under controlled conditions) that*

*accurately and honestly depicts a performance aspect of the advertised product (namely, the ability of the Transforma Ladder 35 to support up to 1.5 tonnes of vertical weight).*

*The complainant's intimation that a viewer is likely to perform the same demonstration is patently unfounded. No reasonable viewer could be expected to respond to this commercial by initiating their own SUV/Ladder demo, and then walk beneath the vehicle. Even in general terms, it is unreasonable to assume a viewer could replicate any element of this demonstration without a professional crew and a forklift at their disposal. In any event, the following disclaimer features clearly throughout the demonstration...*

*"Demonstration performed by trained professionals. Only use ladder as per manufacturer's instructions."*

*The demonstration in this advertisement was filmed under controlled conditions. Viewers are clearly advised not to replicate any aspect of this demonstration ("Only use ladder as per manufacturer's instructions"). These instructions clearly state that users should not exceed a 180kg load on the Transforma Ladder 35 featured throughout the commercial, as per the Transforma Ladder Safety and Operating Manual...*

*6. Dependent on the model ladder you have purchased they are rated to the following load bearing capacity and AS/NZS 192.1:1996 standard:*

- 180kg load bearing capacity*
- 120kg load bearing capacity*

*Do not exceed safe working limits.*

*All representations in the advertisement are portrayed in a responsible manner. There were no contraventions of the New Zealand Health and Safety at Work Act during filming. The script and final TVC were given approval by CAD (number/documentation?).*

*In conclusion, the complainant has chosen to ignore this commercials clearly posted safety warnings and disclaimers, along with the related safety images (hardhats, safety vests, safety perimeter markings, etc.), and subsequently seems to hold a far-fetched belief that viewers might 'try this at home'. He is entitled to that belief, however he is not correct. In our opinion, his complaint is without merit and should not be upheld.*

## **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 concerns that the advertisement which presents a man walking beneath a vehicle suspended by a ladder, presents a breach of safety practice.

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

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 the advertisement is for a Transformer Ladder.

The Board noted that in the advertisement the ladder is tested holding the weight of an SUV. The Board considered the advertiser's response that "the commercial features a demonstration (filmed under controlled conditions) that accurately and honestly depicts a performance aspect of the advertised product (namely, the ability of the Transforma Ladder 35 to support up to 1.5 tonnes of vertical weight)."

The Board noted the significant safety efforts in place during the advertisement, including the clear safety warnings, the on screen disclaimer, along with the related safety images of men wearing hardhats and safety vests, and the safety perimeter markings.

The Board considered the complainant's concern that the advertisement might result in unsafe practice. The Board considered that it was not a realistic scenario for someone to undertake at home given that in order to do so one would require a crew and a forklift. The Board considered that whilst the behaviour of the man walking under the vehicle may be considered unsafe, this exercise was not likely to be replicated by an individual at home.

Noting the level of safety equipment in place and the warnings throughout the advertisement, 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 complaint.