



Case Report

1	Case Number	0326/17
2	Advertiser	L'Oreal Australia Pty Ltd
3	Product	Toiletries
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	26/07/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The advertisement features a couple in a city. They are doing extreme things to be together. They climb over taxis, and sit on building scaffolding that is suspended high up.

THE COMPLAINT

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

The two people in the Ad especially the woman walk all over the bonnets and roofs of Yellow Cabs lined up in a street. They then seem to hang onto each other and fall forward onto some suspended scaffolding which I suppose is computer generated.

They then sit down facing each other on said scaffolding legs entwined. They then mumble the fragrance names.

It will only be a matter of time before some teenagers attempt this stupidity with dire consequences. We are all aware most teenagers 'live in a cartoon' nowadays and as there is NO reset button on Life and Living please please please remove this ridiculously provocatively stupid Ad.

This is NOT the way to sell fragrances is it?

THE ADVERTISER'S RESPONSE

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

The Brand and the Products

L'Oréal Australia is the exclusive authorised licensee and distributor of Emporio Armani branded (Armani) products in Australia.

In 1981, Giorgio Armani imagined and created Emporio Armani as an urban, energetic, positive brand, enamoured with youth and freedom: a more experimental version of his style. Emporio Armani became a line for men and women who are free to “do, create, and love.”

In 1998, Giorgio Armani created the first Emporio Armani fragrances embodying a modern approach with multicultural echoes, drawing inspiration from all corners of the world. In that same year, L'Oréal Australia launched Emporio Armani fragrances into the Australian marketplace.

*After more than 30 years, 2017 is the year for two new fragrances that express this contemporary lifestyle and speak to a new generation of consumer:
Because It's You – for her; and
Stronger With You – for him,*

The Products are a pair of fragrances equal in strength. These new Products were launched internationally on 1 June 2017, and into the Australian marketplace via Myer on 18 June 2017.

The theme of the campaign is “when you are in love, you can do extraordinary things together”. To depict this, the campaign features three scenes which are a poetic metaphor of what can be achieved as a pair as part of a story of unconditional, joyful love.

The Complaint itself alleges a breach of section 2.6 of the Code. We respond to this alleged breach in detail in sections 5 and 6 below.

However, in your Letter, you have requested that L'Oréal Australia does not limit its response to the Complaint as the Board will also review the advertisement in its entirety against Section 2 of the Code.

We have considered Section 2 of the Code and for the reasons set out below, L'Oréal Australia denies any allegations that the Advertisement breaches the Code.

2.1 - Discrimination or vilification

L'Oréal Australia does not believe that the Advertisement portrays people or depicts 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.

2.2 - Exploitative and degrading:

L'Oréal Australia does not believe that the Advertisement employs sexual appeal in a manner which is exploitative and degrading of any individual or group of people. In fact, the Advertisement seeks to depict equally strong and independent male and female characters,

who are authors of their own lives. To bring the story to life, Giorgio Armani chose actors rather than models.

2.3 – Violence

L'Oréal Australia submits that the Advertisement does not present or portray violence of any kind. As noted above, the Advertisement is a joyful love story that is not a short-lived romance but rather a solid years-long relationship.

2.4 - Sex, sexuality and nudity

L'Oréal Australia submits that the Advertisement does not present or portray sex, sexuality or nudity which would cause widespread offence. Any references to sex we believe are tasteful, consistent with an unconditional love story and entirely consistent with fragrance industry standards.

2.5 – Language

L'Oréal Australia does not believe that the Advertisement employs any language in breach of the Code. As noted above, the script for the Advertisement is sparse.

Specific response to alleged breaches of the Code in the Complaint

2.6 – Health and Safety

L'Oréal Australia does not believe that the Advertisement depicts unsafe behavior in and of itself, and/or with regard to prevailing community standards relating to health and safety.

Further to our description of the Advertisement in section 2 above, the Advertisement is intended to be an exciting and extraordinary love story. That is, the couple search for one another, prove their love to each other and always find themselves together: up close, at the top of a building, or on the roof of a yellow taxi – quintessential New York City references. Film Director, Fabien Constant states “We really went for the spirit of cinema, to bring the audience into the story...The end scenes were carefully constructed to be truly exceptional moments. Because love isn't soft, gentle and smooth.”

The rationale for the imagery and overall creative of the Advertisement, song and filming techniques was to emphasise a 21st century love story with a cinematic and in parts clichéd effect depicting the following tag lines: “Together we can touch the sky, Together we can fly, Together we are unstoppable”. This love is reinvented and captured in a pair of fragrances and symbolized by two intertwined rings.

More specifically, the Advertisement is very clearly stylised:

The yellow taxis depicted in the Advertisement are immobile, there are no drivers inside them, and nor is there any suggestion of danger. The couple run over the taxis fancifully; it's clichéd and romantic;

In the diving scene, the male character is standing on a diving board above a swimming pool. It follows that when the couple spring off the diving board, they would dive into the pool; and

In the scene featuring the beam, this is intended as a metaphoric reference to “Together we can touch the sky”, on a rooftop in New York City. This scene has a dream like purple tone to add to the stylised fantasy of this scene. In addition, both characters are dressed

inappropriately for climbing activities – the female character is wearing a cocktail dress and both characters have bare feet. This costume choice adds to the stylised and unrealistic nature of the scene.

At the end of the Advertisement both characters join in a very audible voice over where they say “The new fragrances for the two of us EMPORIO ARMANI”, and two perfume bottles are clearly displayed. There is a pregnant pause and then a call to action for consumers to “Visit Myer today”.

The target audience for the Advertisement is young to middle aged women and men with an interest in luxury fragrances and fashion. The Advertisement was not designed to target children, young teenagers or extreme sport enthusiasts. We ask the Advertising Standards Bureau to consider the Advertisement in the context of its target audience, as per Case Numbers 0410/14 and 0090/15.

The Advertisement was produced in a safe and controlled environment. Please see the letter from Storer Productions, the production house engaged for the film shoots attached as Schedule 1 to this letter. We also ask Advertising Standards Bureau to take this into consideration, as per Case Number 0090/15.

The Complaint

We refer the Board to our detailed response in sections 2 and 5 of this letter. In addition we note as follows.

The Advertisement aired on free to air TV for the period 25 June 2017 and ended on 9 July 2017. The ASB has only received this one Complaint in relation to it. We therefore query whether the sentiments expressed in this one Complaint are in fact representative of the views of the wider community and/or the relevant audience. We understand that the individual who made the Complaint would not typically be the target audience for the Advertisement.

Further, we have not received separate complaints about the Advertisement via our Consumer Affairs Department, or to our knowledge, via our retail partner Myer.

The Complaint may have misinterpreted the activities engaged in by the actors in the Advertisement. The Complaint describes the actors as hanging onto each other and falling forward onto scaffolding. This is not what is shown in the Advertisement. The scene depicts the actors jumping off a diving board together, implying that they land safely in an unseen pool below. The Advertisement then cuts to a separate shot of the actors on the scaffolding, wearing different clothes. The complainant may have misunderstood the Advertisement and the activities depicted in the Advertisement.

The actors in the Advertisement are not Minors or teenagers themselves, and nor is the Advertisement targeting the teenage consumer or Minors. The Advertisement does not contain any cartoons, or cartoon-like images or characters.

We submit that the Advertisement does not contain anything that is likely to encourage consumers, specifically teenagers, to “attempt stupidity with dire consequences”.

Rather, this Advertisement is typical of advertisements depicting a love story for fragrances,

and we believe the broader community would interpret the Advertisement in that context.

For the reasons set out in this letter, L'Oréal Australia respectfully requests that the Board dismiss the Complaint.

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 depicts unsafe behaviour that could be copied by young people.

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 this television advertisement features a couple in various scenarios ensuring they are together and includes associated on screen text. The scenes include:

On a lounge - “together we are stronger,”

In the street (where they walk across the tops of a group of yellow taxis) - “together we are unstoppable,”

On a diving board – “together we can fly,” and

On top of some hanging scaffolding - “together we touch the sky.”

The final shot shows the male and female version of the fragrance “It’s you” and “stronger with you” fragrances by Emporio Armani.

The Board noted the advertiser’s response that the advertisement was produced in a safe and controlled environment.

The Board noted that it had dismissed a matter for Australian Insurance Holdings (0024/15) where the character “Captain Risky” performs stunts. In this case the Board considered that “the stunt is unlikely to be copied as the man was shown from a great height on an elaborate platform and that the materials required to build the same structure, or a similar one are something that most viewers including children are unlikely to have access to.”

Similar to the above case the Board considered that the stunts that the couple perform are clearly fanciful and unrealistic and that access to the types of places and scenarios in the advertisement would be limited to production crews and movie makers.

The Board acknowledged there is significant community concern regarding worksite safety and general activity that could lead to harm. The Board noted the advertiser’s response that the target audience for the product is “young to middle aged women and men with an interest in luxury fragrances and fashion.”

The Board considered that the style of advertisement would not draw the attention of people in a manner likely to encourage copying behaviour.

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.