



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0432/14</b>
<b>2</b>	<b>Advertiser</b>	<b>True Value Solar</b>
<b>3</b>	<b>Product</b>	<b>House Goods Services</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>22/10/2014</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheld - Modified or Discontinued</b>

## ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

This television commercial features True Value Solar brand ambassador Tom Williams and Essendon FC head coach Mark Thompson, with the two men depicted inside Mark's home conversing about a new purchase Mark has made (which has not yet been revealed). Tom quizzes Mark on the purchase with concern for the potential high energy cost of powering it. Mark dismisses Tom's concerns as he has already installed a True Value Solar system - he is therefore saving on his energy costs, giving him the freedom to enjoy more outlandish lifestyle purchases. It is then revealed to audience that Mark's purchase is a home anti-aging solarium fitted with collagen globes. Mark is ultimately depicted relaxing inside the collagen solarium watching a football replay as Tom encourages audience to contact True Value Solar. The 'punchline' of the advertisement is intended as a humorous play on the increasingly self-conscious and media-aware world of professional sports.

## THE COMPLAINT

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

*I believe this to irresponsible and illegal in some states.*

*A home solarium was used to show as part of the advertising which I believe is not right as VIC and SA have put out a law to close commercial operators to close because of skin cancer development can accrue.*

*The ad distinctly shows a sun tanning solarium to show how the savings of using solar power ,*

*but with the death death of Clair from Cancer and all the medical information about the dangers of sun tanning is distasteful to her family and to our Government who even had ads to try to stop people from this kind of tanning. I think it is distasteful and sends the wrong message.*

## **THE ADVERTISER'S RESPONSE**

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

### *Complaints*

#### *Thematically:*

- *all four complainants object to the depiction of a home solarium in the Advertisement;*
- *all four complainants say that the use of solariums is illegal and banned in Australian States including Victoria;*
- *one complainant found the depiction distasteful. Another considered it insensitive and grossly offensive. The remaining two complainants called it irresponsible and 'not right';*
- *two complainants refer to Clare Oliver, renowned anti solarium and skin cancer activist;*
- *three of the four complainants linked solariums with melanoma and skin cancer;*
- *one complainant said that the incorrect inference to be drawn from the Advertisement is that lying in a solarium is a safe and acceptable practice.*

### *Commercial Tanning Units*

*At the outset, TVS wishes to express its support for the banning of commercial solariums, or tanning units, which, in Victoria takes effect from 1 January 2015. State wide bans will also take effect from 1 January 2015 in New South Wales, South Australia, Australian Capital Territory and Queensland. Presently, the use of tanning units in Victoria is tightly regulated by the State Government.*

*TVS accepts and acknowledges that the use of tanning units is unsafe and leads to various forms of cancers, including skin cancers. TVS does not support the use of tanning units whether at home or commercially. The Advertisement was not intended to convey that message. It did not.*

*TVS acknowledges Clare Oliver's battle with cancer and her substantial and significant efforts in making the public aware of the dangers of solariums.*

*TVS does not supply commercial tanning units. It does not have commercial interests in any businesses which supply commercial tanning units. TVS does not stand to gain anything from*

*depicting a solarium in the advertisement.*

### *Clarifications*

*There are some important factual matters which TVS would like to clarify in respect of the advertisement complained of:*

*It is unfortunate that Mark Thompson was thought, by the complainants, to be lying in a solarium fitted with UV globes (in order to obtain a tan). In fact, he was not. The solarium in question was fitted with Collagen globes, which do not emit any form of harmful UV radiation. Collagen globes are used for skin anti-aging treatment and not for tanning. We refer you to the following website (which is the website of the supplier of the Collagen globes for the advertisement):*

*[http://www.solaire.com.au/Main.asp?\\_=Collagen%20Information](http://www.solaire.com.au/Main.asp?_=Collagen%20Information)*

*As can be seen in the Advertisement, the light emitting from the globes in the solarium is not UV light. The colour of the light emitted is typical of Collagen globes and was not colour treated in post-production.*

*The advertisement was specifically intended to convey the use of a solarium as an anti-aging treatment, rather than as a tanning device. This fits into the context of the advertisement featuring Mr Thompson, and given his age (50 this year). Mr Thompson was not seeking to get a tan.*

*TVS, as a promoter of solar power products which provide energy and cost saving benefits from natural daylight, would not want to, and would never intend to, endorse a product that re-produces the effect of harmful UV light. Especially given that harmful product will soon be banned from most Australian States.*

*TVS understands that the use of Collagen globes will not be prohibited by the introduction of legislative bans on commercial tanning units. The reason being, Collagen globes do not emit harmful radiation, only light. TVS believes that Collagen globes will be continually used as a treatment for skin anti-aging for many years to come.*

*As mentioned above, the statutory bans do not take effect in most states until 1 January 2015. Accordingly, claims made by some of the complainants that solariums are currently illegal and banned, are incorrect.*

### *Health and Safety*

*TVS agrees that the use of tanning units poses an unacceptable health and safety risk. However, TVS does not agree that the advertisement breaches the Code in any way. The material depicted is not contrary to the Prevailing Community Standards on health and safety.*

*The scene depicted in the advertisement was purely for humour and/or satire. Mark Thompson, accomplished football player and coach, aged 50 was employing the use of a home solarium, is a humorous play on energy consumption - using an anti-aging treatment (Collagen bulbs) within an increasingly youth-conscious and media-savvy Australian*

*sporting culture.*

*The depiction of Mark Thompson lying in the solarium wearing goggles and watching television at the same time was simply meant to invoke the viewer's sense of humour, especially given Mr Thompson's age. Mr Thompson was not using the solarium in a serious manner, and was not depicted to be doing so.*

*The Advertisement does not in any way endorse or promote the use of solariums. Nor does it suggest that the use of solariums is safe. It does not encourage the installation of solariums in Australian homes. The advertisement was about energy consumption.*

*The Advertisement does not recklessly depict an unsafe practice i.e. a person driving whilst using a mobile phone. The practice depicted, that of Mark Thompson lying in a solarium face down and watching television with goggles on, is a practical impossibility and has no other purpose than to invoke humour.*

*There is widespread public awareness of the dangers of tanning units (leading up to the forthcoming statutory bans) throughout Australia. TVS believes that the general viewer will not take the advertisement seriously, in relation to those aspects which relate to the use of a solarium. TVS believes that given this public awareness, and the incoming statutory bans, the general viewer who watches the Advertisement will not for the moment assume that the use of solariums is safe or encouraged.*

*TVS sincerely apologises to the complainants if they found the Advertisement to be distasteful. However, TVS maintains that the Advertisement does not breach the Code, does not breach section 2.6 of the Code, and does not offend the prevailing community standards of health and safety.*

## **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 complainants’ concerns that the advertisement depicts a sun-tanning solarium which is irresponsible in light of the imminent government ban and is contrary to prevailing community standards on health and safety around tanning.

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 the advertisement features Essendon coach, Mark Thompson, explaining how he saves money on electricity by using True Value Solar.

The Board noted the complainants' concerns that the inclusion and use of a sun bed in the advertisement is not appropriate.

The Board noted that there is significant community debate and concern regarding sun beds and the dangerous side-effects associated with them. The Board noted that as of 2015 tanning salons will not be allowed to offer sun-beds as a tanning option in Australia as they are a cause of melanomas.

The Board noted the advertiser's response that the advertisement depicts a collagen bed, not a tanning bed, and that these beds do not emit UV rays and therefore do not fall under the legislative ban and are not unsafe.

The Board noted information from a number of suppliers (solaire.com.au, spaaustralasia.com.au) that collagen beds are used as a treatment for skin anti-aging and considered that whilst this type of treatment itself is not currently considered to be unsafe in the Board's view it is not clear that the bed depicted in the advertisement is a collagen bed rather than a sun-tanning bed. The Board noted the advertiser's response that the light emitted from collagen bulbs differs to the light emitted by UV bulbs but considered that most members of the community would not be aware of this. The Board noted that Mark Thompson would be familiar to a large audience and considered that the depiction of Mark Thompson using what appears to be a sun-tanning bed is a depiction which normalises, and could encourage, the use of a sun bed.

The Board considered that the advertisement did depict material contrary to prevailing community standards.

The Board determined that the advertisement did breach Section 2.6 of the Code.

Finding that the advertisement did breach Section 2.6 of the Code the Board upheld the complaints.

## **THE ADVERTISER'S RESPONSE TO DETERMINATION**

True Value Solar confirms that the advertisement is no longer being broadcasted on television.