



Case Report

1	Case Number	0500/16
2	Advertiser	Marshall Batteries
3	Product	Automotive
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	23/11/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows a man and his pregnant wife, who is in labour, heading (from home) to the car to go to hospital. The car does not start so the woman phones Marshall Batteries. A van comes, fixes the problem, then the woman says she hopes the man knows where the hospital is and we see the man look worried.

THE COMPLAINT

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

The couple (one pregnant) get into a motor vehicle and attempt to start the vehicle WITHOUT even attempting to put on seat belts. This has a strong subliminal message (particularly the young) that the seatbelt laws are there to be flaunted. Change advert to show couple seat belted attempting to start car. SEND A POSITIVE MESSAGE.

THE ADVERTISER'S RESPONSE

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

We take complaints seriously and we appreciate all feedback regarding our brand advertising and corporate messaging.

Marshall Batteries has been involved in motoring and motorsport since 1935 and we are highly cognisant of motoring safety and associated messages.

We would agree with the complainant, if the motor vehicle was running and moving however, in this advertisement, seatbelts were not used as the vehicle was neither running nor moving, in fact it was the storyline that the vehicle was completely disabled due to a flat battery.

We therefore believe that the advertisement does not promote unsafe motoring or the use of a motor vehicle, with passengers unrestrained.

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 a couple in a car not wearing seatbelts which is not a positive message.

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 this television advertisement depicts a man trying and failing to start his car in order to take his pregnant wife to hospital.

The Board noted the complainant’s concern that the couple is not wearing seatbelts.

The Board noted the Australian Road Rules (February 2012) provide that seatbelts should be worn by the driver (and any passengers) in a motor vehicle where:

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(1) The driver of a motor vehicle that is moving, or is stationary but not parked, must comply with this rule if the driver’s seating position is fitted with an approved seatbelt.

The Board noted that the vehicle in the advertisement is parked on the driveway of the couple’s home and considered that we do not see the couple driving off in the car and there is no suggestion that they would not have fastened their seatbelts once they were able to drive.

The Board noted that while it would have been better if the advertiser had shown the couple to fasten their seatbelts prior to starting the car’s engine the Board considered that the couple were clearly in a parked vehicle, and as the car is not seen moving their actions did not breach the Road Rules. In the Board’s view the advertisement is very unlikely to encourage people to not wear a seatbelt in a moving, or stationary but not parked, vehicle.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety.

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.