



Case Report

1	Case Number	0564/16
2	Advertiser	Super Cheap Auto Pty Ltd
3	Product	Automotive
4	Type of Advertisement / media	TV - Pay
5	Date of Determination	18/01/2017
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.6 - Health and Safety Motor vehicle related
- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This advertisement portrays a scene where a father is heading off on a trip and says to his son 'don't touch my car'.

The son is then seen driving off road with three friends in the car. They drive over a river crossing and along a dirt road.

Two people in the back of the car are shown with drinks and food which flies everywhere as the car goes over bumps. The person in the front passenger seat empties a packet of chips over the people in the back seat, one of whom responds by pouring a drink over his head.

The four friends are then shown running around the parked car having a food fight and later playing in the mud.

The son is shown driving again wearing a costume, with the person in the passenger seat in a panda costume. A person stands in the backseat of the car with her head and arms out of the sun roof, wearing a mask and holding a water gun.

The car is then seen driving along a beach and the friends camp on the beach.

The son is then shown at home receiving a text from his dad saying they would be home in an hour. The son heads into Supercheap to buy cleaning supplies and is shown cleaning the car.

The father comes home and says the car looks great, but the driveway doesn't. The clean car is then shown on a very dirty driveway.

THE COMPLAINT

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

Whilst out joyriding in his dad's car the teen was driving recklessly, including allowing his friends to be hanging out of the sunroof as the car was moving, so no seatbelts being used.

THE ADVERTISER'S RESPONSE

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

The complainant has identified that The Advertisement features a scene where one of the actors is standing with their upper body through the sunroof of the vehicle.

On the basis of the complaint, we have considered this feedback and have re-edited The Advertisement to remove this scene entirely. We believe this change addresses the primary concern raised by the complainant, and subsequently ensures compliance with Section 2.6 of The Code.

The complainant has also identified that the "teen was driving recklessly". We do not support this view, as we believe that The Advertisement simply depicts the type of driving encountered on a typical 4 wheel driving adventure. Whilst 4 wheel driving, it is common to expect the vehicle to bounce over bumps in the road surface and have water or mud splashed on the vehicle. Examples of these driving conditions can be found in the numerous 4 wheel drive and adventure type television programs.

It is also clear that these scenes in The Advertisement were not filmed on a public road, as evidenced by the single vehicle track being negotiated.

We trust that addressing the scene involving in the actor and the vehicle sunroof resolves the significant concern raised by the complainant. For the reasons outlined above, we do not believe that balance of The Advertisement depicts material which contravenes Section 2.6 of The Code but rather depicts conditions consistent with using a 4 wheel drive vehicle in off-road conditions. Supercheap Auto is committed to complying with the Code, all applicable laws related to advertising as well as community standards around Road 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 complainant's concerns that the advertisement depicts a car being driven in a reckless manner with no seatbelts being worn, and in one scene, a person hanging out of the sunroof.

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 features a young man taking his father's car and getting it dirty before using Supercheap Auto products to clean it so his father doesn't know he borrowed the car.

The Board noted the complainant's concern that the advertisement depicts reckless driving. The Board noted that the advertisement depicts a vehicle being driven in various off-road environments and considered that the driver appears to be in control of the vehicle at all times, the driving appears to be suited to the terrain and the overall emphasis is on the vehicle getting dirty rather than the driving itself.

The Board noted the complainant's concerns over the depiction of a person hanging out of the sunroof while the car was in motion and therefore no seatbelt being worn. The Board noted that in all driving scenes where the passengers are seated the seatbelts are all being worn correctly. The Board noted the scene where a passenger is standing up through the sunroof and considered that it is clear a seatbelt is not being worn by this passenger. The Board noted Section 268 (3) of the Australian Road Rules (February 2012 version) which provides:

"A person must not travel in or on a motor vehicle with any part of the person's body outside a window or door of the vehicle, unless the person is the driver of the vehicle and is giving a hand signal..."

The Board noted that 'window' is defined in the Dictionary section of the Australian Road Rules as:

"window, in relation to a vehicle, includes any sunroof fitted to the vehicle."

The Board considered that the scene showing a person standing up in a moving vehicle with part of their body outside of the vehicle is clearly contrary to the Australian Road Rules and is therefore a breach of prevailing community standards on health and safety around traveling in a moving motor vehicle.

The Board noted the advertiser's response that the scene featuring the person standing up through the sunroof has been edited out of the advertisement and congratulated the advertiser on their voluntary actions. The Board noted however that its role is to make a determination on the original advertisement under complaint, and not the modified version, and determined that the advertisement did depict material contrary to Prevailing Community Standards on health and safety.

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 complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The ASB noted that the advertiser had modified the advertisement prior to the Board's determination: the scene featuring a person standing up through the sun roof has been removed from the advertisement.