



## **CASE REPORT**

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|-------------------------------|---------------------------------|
| 1. Complaint reference number | 506/09                          |
| 2. Advertiser                 | Energy Australia                |
| 3. Product                    | House goods/services            |
| 4. Type of advertisement      | Outdoor                         |
| 5. Nature of complaint        | Health and safety – section 2.6 |
| 6. Date of determination      | Wednesday, 11 November 2009     |
| 7. DETERMINATION              | Dismissed                       |

## **DESCRIPTION OF THE ADVERTISEMENT**

This outdoor advertisement depicts a man and young woman on a motor bike. They are wearing helmets and the driver is wearing long pants and long sleeves. The girl is depicted wearing a skirt and boots with her legs revealed.

## **THE COMPLAINT**

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

*The reason I object to this advertising is because of the way the young adult daughter is dressed on the back of the motorbike. She is dressed in a short skirt, a short sleeve top, inappropriate biking footwear and also has no gloves on. I believe this sends a very dangerous message to any person contemplating riding a motorbike that it is acceptable to dress like this - it is promoting an unsafe or dangerous behaviour or activity to children and adults. It also depicts unsafe driving/riding of motorbikes. As a motorbike passenger with a husband who rides motorcycles we were both shocked to see this advertisement. In the weeks surrounding us seeing this advertisement, 2 people were killed in bike accidents in the northern suburbs of Sydney alone. We also both know people who have died in bike accidents or been terribly injured even with all the protective clothing. We have also had a low speed accident ourselves and come off the bike in 40 degree heat and if we weren't wearing the right clothing we would have a lot of scarring from skin coming off. I understand the message here is about a rebellious teen/young adult not listening to mother but I think the same effect could be achieved with her decked out in leather riding gear which is more appropriate for motor bike riding. I believe it is irresponsible advertising placing any person on a motorbike without, in the very least, clothing which covers legs, arms, hands and other exposed parts of bodies that are likely to get injured first in an accident. Ideally the advertising would have them in correct biking gear - this could still be 'cool' looking with the models outfitted in Kevlar jeans or leather. I would ideally like to see this advert removed or at least the picture re shot more responsibly. Thank you for your time and consideration of this complaint.*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

*Thank you for your correspondence relating to a complaint that you have received in relation to one of our print advertisements ("Wastes energy telling daughter to be back by midnight").*

*The nature of the complaint relates to the fact that the advertisement depicting a young adult daughter on the back of a motorbike is inappropriately dressed as she is pictured wearing a short skirt, a short sleeve top, inappropriate biking footwear and without gloves, and that this depicts unsafe driving or riding of motorcycles and promotes dangerous behaviour to children and adults.*

*The “Wastes energy telling daughter to be back by midnight” advertisement is one of a number of advertisements in our “Wastes Energy, Saves Energy” brand campaign. The intention behind the campaign is to depict the different ways that consumers waste physical energy and juxtapose this with the ways in which EnergyAustralia can help consumers save electrical energy (i.e. be energy efficient).*

*EnergyAustralia recognises that motorcycle safety is an important issue. However, we are strongly of the view that the advertisement does not contravene Section 2.6 of the AANA Advertiser Code of Ethics, which states that “ Advertisements shall not depict material contrary to prevailing community standards on health and safety”. The advertisement does not promote unsafe driving of a motorcycle or any other dangerous behaviour. This is because a key feature of the campaign is the depiction of very individual characters and relationships rather than role models demonstrating ideal characteristics or behaviours. As pointed out by the complainant, the specific relationship depicted here is a rebellious teen/young adult not listening to her mother . We believe that most, if not all viewers of the advertisement would interpret the young woman as a specific character in the context of that particular family relationship rather than as representing model behaviour.*

*We recognise that bike riders would be well advised to wear protective clothing. However, we do not think that an absence of other protective clothing is, at this point in time, contrary to prevailing community standards on health and safety within the terms of Section 2.6. If that were the case, legislators would have responded by making the wearing of full body protective clothing a legal requirement. Motorcycle riders are required by law to wear a safety helmet, but to our knowledge there is no legal requirement to wear other protective clothing. Both the male driver and female passenger depicted in this advertisement are wearing crash helmets.*

*Notwithstanding our comments above, we recognise that this advertisement appears to have caused distress to this complainant who is herself the victim of a motorcycle accident. As a goodwill gesture, we would be prepared to withdraw the "Daughter on Bike" from our "Wastes Energy, Saves Energy" brand campaign. This would mean that while the advertisement would not be removed from any existing sites, there would be no new placements of the "Daughter on Bike" advertisement.*

## **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 woman did not appear to be suitably dressed to be on the back of a motorbike and especially since it was an advertisement for Energy Australia was sending a dangerous message to the community.

The Board viewed the advertisement and considered whether the advertisement was in breach of 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 reviewed the National Road Rules and noted that there is currently no legal requirement for passengers on motor vehicles to wear a type of protective clothing. The Board noted that the only legal requirement is for riders to wear helmets which meet the Australian standards.

The Board did consider the image of the young woman, who was wearing a skirt and boots and sitting on the back of the motor bike, to be contrary to a number of motorbike safety messages regarding wearing protective clothing. The Board agreed that the advertiser could well have used an image of a woman wearing protective clothing or long sleeves and long trousers.

The Board noted that although it may not be suitable to wear a skirt on a motorbike, it was not presently illegal. The Board also considered that there is not yet a community standard that all passengers on motorbikes wear full protective clothing or a common expectation of what that clothing would comprise, although this is a situation that may well change in the near future. The Board determined that the advertisement did not depict material contrary to prevailing community standards on safety on motorbikes and 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.