



**Ad Standards** Community Panel  
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Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	<b>Case Number</b>	<b>0014/19</b>
2	<b>Advertiser</b>	<b>Toyota Motor Corp Aust Ltd</b>
3	<b>Product</b>	<b>Vehicle</b>
4	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
5	<b>Date of Determination</b>	<b>23/01/2019</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

FCAI Motor Vehicles 2(c) Driving practice that would breach the law  
2.2 - Objectification Exploitative - women  
2.4 - Sex/sexuality/nudity S/S/N - general

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a woman driving a vehicle through the city. The vehicle passes by two women who turn their heads to take a closer look at the vehicle. The vehicle stops at a set of traffic lights, in front of a cafe. A male patron of the cafe notices the driver. As the driver waits for the lights to change, she is seen applying lipstick. The tinted rear window then comes down, revealing the face of the driver's young son in the back seat. He glares at the man, who sees him and looks away.

## THE COMPLAINT

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

*In the age of #MeToo awareness of sexual exploitation is only too apparent. That in 2019 an advertisement shown on free to air TV employs the age old sexual stereotype*





*of a woman's parted lips (labia) and the use of an exposed lipstick (phallic symbolism) to sell a motor vehicle. Maybe this is just a lack of imagination on the part of the marketing agency, but it just seems highly inappropriate in 2019.*

*That would be a case of distracted driving which you can cop a fine and demerits for. I do not think it should be shown. It is illegal to do anything in a vehicle except driving.*

## **THE ADVERTISER'S RESPONSE**

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

### *Description of Advertisement*

*The Advertisement is a 30 second television commercial broadcast throughout Australia that promotes Toyota's Kluger vehicle. It was first broadcast week commencing February 19th, 2017 and was subject to the Commercials Acceptance Division (CAD) approval process to ensure suitability before it went live across media channels. By way of general summary, the Advertisement features a woman driving a blue Toyota Kluger in an urban environment. The vehicle passes by two women who, clearly impressed, turn their heads to take a closer look at the vehicle. The camera then cuts to a scene of the vehicle being driven down a side street. As the vehicle nears a set of lights, the driver brings the vehicle to a stop as the lights turn from amber to red. Viewers can see that the vehicle has stopped in front of a café. A male patron of the café notices the driver. As the driver waits for the lights to change, she is seen applying lipstick. Suddenly, the tinted rear window comes down, revealing the face of the driver's young son in the back seat. He glares at the man, who sees him and looks away awkwardly.*

**TOYOTA'S RESPONSE** Section 2(c) of the FCAI Code Section 2(c) of the FCAI Code requires that advertisements for motor vehicles do not portray driving practices or other actions that would breach any Commonwealth law or State/Territory law dealing with road safety or traffic regulation. To Toyota's knowledge, there is no road rule or law prohibiting drivers from applying makeup whilst stopped at a red light. Rather, each State and Territory requires drivers to have control of their vehicle whilst driving. In the Advertisement, the driver applies lipstick whilst the vehicle is stationary and the driver safely drives it away when the lights change from red to green (although the Advertisement does not show the change in lights). Nothing in the Advertisement suggests or depicts that the driver's concentration is affected by, or that the driver does not have control of the vehicle as a result of, applying makeup. At all times during the Advertisement, the driver has a clear view of the road, has proper control of her vehicle when driving, and drives in a reasonable and prudent manner Sections 2.1 of the AANA Code. The intention behind the Advertisement is to depict the Toyota Kluger model as attractive and, therefore, itself attention-grabbing, whilst adding some light-hearted humour by depicting a young boy intimidating a man much older than him, because the young boy assumes the man is attracted to his mother rather than the vehicle – it is a play on



*the double entendre. There was no intention to, and Toyota does not believe that, the Advertisement discriminates against or vilifies any person or section of society. Further, we note the AANA Code of Ethics Practice Note states that portraying a woman as attractive does not of itself constitute discrimination or vilification of women. Section 2.2 of the AANA Code Section 2.2 of the ANNA Code requires advertising or marketing communication not: (a) to employ sexual appeal where images of minors, or people who appear to be minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people. In Toyota's view only section 2.2(b) is relevant to the complaint. There was no intention to, and Toyota does not believe that, the Advertisement employs sexual appeal in a manner which is exploitative or degrading of females. The purpose of the Advertisement is a play on the double entendre – the woman's young son assumes the male café patron is looking at his mother, when in fact the actor is captivated by the Toyota Klugar vehicle. Toyota notes that the woman in the Advertisement applies lipstick in public, while fully clothed and while she is with her young son. Given this context, Toyota does not believe that the depiction of the woman's partially open mouth while applying the lipstick amounts to a suggestion of a sexual act.. Further, notwithstanding that Toyota acknowledges the Advertising Standards Bureau is not bound by its previous determinations, Toyota refers to cases 0254/14 and 0416/14. In both these cases. Yje ASB dismissed complaints relating to the depiction of a woman with slightly open lips. Finally, while Toyota respects the rights of individuals to interpret this scene in accordance with their own views and values, Toyota finds it incredulous that someone would have thoughts of the kind expressed by the complainant when looking at a woman's lips and lipstick (an everyday product used around the world). Section 2.4 of the AANA Code Section 2.4 of the AANA Code requires advertising or marketing communications to treat sex, sexuality and nudity with sensitivity to the relevant audience. Toyota notes the Advertisement does not contain pornographic language, nudity, sexual innuendo or sexual activity. Toyota further notes that the woman is not scantily clad or represented in a sexual pose. In the circumstances therefore, Toyota believes the woman is not depicted as a sexual object. Accordingly, and for the reasons outlined above Toyota does not believe that the Advertisement breaches section 2.4 of the AANA Code. Conclusion In light of the reasons contained in this letter, Toyota does not believe that the Advertisement is in breach of either the FCAI Code or the AANA Code of Ethics. Accordingly, Toyota requests that the complaint be dismissed. Please contact the writer if you require any further assistance or information.*

## **THE DETERMINATION**

The Ad Standards Community Panel (the Panel) was required to determine whether the material before it was in breach of the Federal Chamber of Automotive Industries Advertising for Motor Vehicles Voluntary Code of Practice (the FCAI Code) or the AANA Code of Ethics.

To come within the FCAI Code, the material being considered must be an



advertisement. The FCAI Code defines an advertisement as follows: "matter which is published or broadcast in all of Australia, or in a substantial section of Australia, for payment or other valuable consideration and which draws the attention of the public, or a segment of it, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct".

The Panel then considered whether that advertisement was for a motor vehicle. Motor vehicle is defined in the FCAI Code as meaning: "passenger vehicle; motorcycle; light commercial vehicle and off-road vehicle". The Panel determined that the Toyota Kruger was a Motor vehicle as defined in the FCAI Code.

The Panel determined that the material before it was an advertisement for a motor vehicle and therefore that the FCAI Code applied.

The Panel noted that this advertisement features a woman pulling up at a set of traffic lights and applying lipstick. A man sitting at a coffee shop is admiring the woman in the car. The back window of the car rolls down and a young boy glares at the man. The woman drives away.

The Panel considered clause 2(c) of the FCAI Code. Clause 2(c) requires that:

"Advertisements for motor vehicles do not portray ...driving practices or other actions which would if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation. (examples: illegal use of hand-held mobile phones or not wearing seat belts in a moving motor vehicle]."

The Panel noted the complainant's concern that the advertisement features a woman applying makeup at a set of traffic lights which is illegal.

The Panel considered the advertiser's response that that there is no road rule or law which would prohibit drivers from applying makeup whilst stopped at a red light. The Panel also noted the advertiser's response that the advertisement does not suggest that the woman does not have control of the vehicle as a result of applying lipstick.

The Panel noted that there is no specific road rule in any state or territory which covers applying makeup while driving or stopped at traffic lights. The Panel considered that this behaviour may fall under the 'driving without due care' provisions.

In SA rule 45—Careless driving states that "(1) A person must not drive a vehicle without due care or attention or without reasonable consideration for other persons



using the road.”

(<https://www.legislation.sa.gov.au/LZ/C/A/ROAD%20TRAFFIC%20ACT%201961.aspx>)

The Panel considered that whilst moving the woman has both hands on the wheel and is concentrating on the road and stops safely at the traffic lights. The Panel considered that the woman is stationary when applying her lipstick and that she still appears to be in control of the vehicle. The Panel considered that the woman can be seen driving with due care and attention and that she was not driving in a way which would breach the law.

The Panel determined that the advertisement did not breach Clause 2(c) of the FCAI Code.

The Panel then considered whether the advertisement breaches the AANA Code of Ethics.

The Panel considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: “Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people.”

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

“Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised. Degrading – lowering in character or quality a person or group of people.”

The Panel noted the complainant’s concern that the advertisement is degrading to women.

The Panel considered that it is not clear in the advertisement whether the man is admiring the woman or the car. The Panel considered that the man does not approach the woman or make any inappropriate movements or comments.

The Panel considered that the theme of a man noticing an attractive woman may be considered to contain sexual appeal, however considered that the advertisement did not depict the woman as an object and that there was no focus on her body parts. The Panel considered that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of the woman.

The Panel noted the complainant’s concern that the depiction of the woman putting



on lipstick is a sexual stereotype.

The Panel considered that this interpretation is unlikely to be shared by most members of the community and the most likely interpretation of this action was a woman taking advantage of having time while stopped at a red light to touch up her makeup.

The Panel considered that the advertisement did not breach Section 2.2 of the Code.

Finding that the advertisement did not breach the FCAI Code or the AANA Code of Ethics the Panel dismissed the complaints.

