



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0021-21
2. Advertiser :	Volkswagen Group Australia Pty Limited
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	10-Feb-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(a) Unsafe driving

DESCRIPTION OF ADVERTISEMENT

This television advertisement is for the Volkswagen Amarok. The Advertisement depicts a man driving his Ute and taking his driving cues from a bobblehead toy dog, sitting on his dash, nodding its head. As the driver is presented with different off-road environments, the bobblehead toy dog nods him on with approval. The Advertisement ends with, "Say Yeah! To the most powerful ute in its class".

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

If this behaviour I've described was to take place in an ON ROAD situation, the driver would be liable for a couple of traffic offences and probably have the vehicle impounded. It's not a good look - as a four wheel drive enthusiast who responsibly treads lightly in the bush, it's hard enough with all the hoons driving old Nissan Patrols, ripping up the bush, campsites and tracks - without having a car manufacturer advertising the same type of behaviour. This type of irresponsible display goes against the advertising standards for motor vehicles I would have thought. If not, then it's not a good look and makes it harder for responsible bush users trying to not have their



favourite pastimes shut out behind locked gates due to irresponsible driving and bush use - such as that displayed in this advertisement.

THE ADVERTISER'S RESPONSE

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

Volkswagen takes compliance with the AANA Code, the FCAI Code and the self-regulation of advertising in Australia very seriously and has obtained legal advice in respect of the Advertisement, and this advice was taken into account in developing the creative content and producing the Advertisement.

We note the requirements under the FCAI Code (in particular clause 2) and the AANA Code to depict safe behaviour in motor vehicle advertising and we actively take this into account and strive to ensure our advertised content is consistent with prevailing community standards. We regret if any members of the public were offended by any content in the Advertisement.

The Advertisement shows specific action sequences, clearly depicted and shown in an off-road setting on a private property to emphasize the off-road capability of the Volkswagen Amarok and are self-evidently exaggerated. Volkswagen submits that the majority of people would, when considering the Advertisement as a whole, appreciate that those action sequences do not encourage people to copy those actions. Volkswagen therefore respectfully submits that the Advertisement is not in breach of the FCAI Code or the AANA Code. Our reasons are set out in further detail below.

General Provisions of the FCAI Code

The Advertisement was shot on a closed, private property in the open bush under supervised conditions with permission from the property owner. Use of onscreen supers in the Advertisement, "filmed under controlled conditions" confirm this. Loss of traction is a natural consequence of driving on grass and up steep inclines, while the vehicle was fitted with ordinary road tyres.

Volkswagen confirms that the vehicle portrayed in the Advertisement was driven within legal speed limits at all times. Volkswagen submits that the Advertisement does not indicate or suggest that the vehicle is being driven at excessive speed. The shoot took place predominantly on private land; a farm in the Southern Highlands in the presence of a safety officer/stunt coordinator. The terrain featured in the Advertisement is grassland/farmland which was filmed on a small section of a privately owned property with full permissions of the owners of the property. No damage was caused. Volkswagen further submits that as the Amarok is a 4x4 vehicle it is reasonable to depict the vehicle in this type of terrain to demonstrate the capabilities of the vehicle. No special permits were required other than traffic control.



Section 2 of AANA Code

In relation to section 2 of the AANA Code, the Advertisement does not portray people or depict material in a discriminatory manner. There is no sexual appeal whatsoever. There is no portrayal of violence in any way whatsoever. The Advertisement does not portray any acts that are in reference to sex, sexuality or any nudity. There is no inappropriate language used in the Advertisement.

In relation to section 2.6 of the AANA Code (Health and Safety), the practice note for the AANA Code provides that advertisements for motor vehicles which raise issues or complaints concerning safety are to be determined according to the FCAI Code rather than the AANA Code. Accordingly, we direct the Ad Standards Panel to our comments above in relation to the FCAI Code.

Finally, Volkswagen submits that the broad majority of people would, when considering the Advertisement as a whole, understand that the Advertisement does not depict unsafe driving, nor encourage people to imitate the exaggerated actions referred to in the Advertisement. Volkswagen maintains that the Advertisement complies with the FCAI Code, and that a reasonable person would not have grounds for a complaint, as it does not display any depicting or condoning behaviour, or depicting material that is in any other way contrary to FCAI Code and the AANA Code. Based on the above, we respectfully submit that the Advertisement falls within acceptable community standards and complies with the FCAI Code and the AANA Code.

THE DETERMINATION

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

The Panel noted the complainant's concern that if the driving behaviour in the advertisement were to take place on road it would constitute traffic offenses.

Is this an advertisement for a motor vehicle?

The Panel considered whether the 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 Volkswagen Amarok 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.



Clause 2(a): Advertisements for motor vehicles do not portray ...unsafe driving, including reckless or menacing driving that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast dealing with road safety or traffic regulation, if such driving were to occur on a road or road-related area, regardless of where the driving is depicted in the advertisement.

The Panel first noted the scene in the advertisement in which, after the vehicle has crossed a river, the wheels spray dirt and grass and there may be some loss of traction. The Panel noted that the driver's wheels and the grass are wet and the spray of grass is not caused by a loss of control of the vehicle or excessive speed.

The Panel noted that the man is seen to pause and consider each scenario before continuing, and that this demonstrated that he was considering the vehicle's capabilities, and was not driving recklessly or dangerously.

The Panel noted Clause 4 of the FCAI code states *"An advertisement may legitimately depict the capabilities and performance of an off-road vehicle travelling over loose or unsealed surfaces, or uneven terrain, not forming part of a road or road related area. Such advertisements should not portray unsafe driving and vehicles must not travel at a speed which would contravene the laws of the State or Territory in which the advertisement is published or broadcast, were such driving to occur on a road or road related area."*

The Panel considered that the advertisement depicts the capabilities and performance of an off-road vehicle travelling over terrain not forming part of a road or road related area and did not portray unsafe driving or driving at a speed which would contravene relevant laws if the driving were to occur on a road or road related area. The Panel found that the driving in the advertisement was consistent with Clause 4 of the Code.

Clause 2(a) conclusion

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

Clause 2(e): advertisements for motor vehicles do not portray ... deliberate and significant environmental damage, particularly in advertising for off-road vehicles.

The Panel noted that in the current advertisement the vehicle was being driven in a manner consistent with off-road recreational use of off-road vehicles, and that the advertisement depicted the vehicles' abilities in off-road conditions.



The Panel noted the vehicle was shown driving off-road, and this would likely have some impact on the environment, however the damage did not appear to be deliberate or significant.

Clause 2(e) conclusion

The Panel considered that the advertisement did not depict the vehicles driving in a manner which could be seen to cause deliberate or significant damage to the environment and determined that the advertisement did not breach Clause 2(e) of the FCAI Code.

Conclusion

Finding that the advertisement did not breach Clause 2(a) or Clause 2(e) of the FCAI Code or any other section of the FCAI Code, the Panel dismissed the complaint.