



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0050-20</b>
<b>2. Advertiser :</b>	<b>Toyota Motor Corporation Australia</b>
<b>3. Product :</b>	<b>Vehicle</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Free to Air</b>
<b>5. Date of Determination</b>	<b>12-Feb-2020</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

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

### DESCRIPTION OF ADVERTISEMENT

This television advertisement features a man driving while listening to the song 'Call Me Maybe' by Carly Rae Jepsen playing through the vehicle stereo. The man turns the volume up and sings along to the song while nodding his head.

The driver pulls up to a red traffic light. The driver's side window is down. The people in the next vehicle watch him singing along to 'Call Me Maybe'. He sees them, stops singing, looks away and frowns. He then pulls away from the traffic light, smiles again and continues singing.

The man pulls up to a function centre, parks the vehicle and walks inside to a business function. The voiceover says; 'Always make a good impression'. The man's phone automatically connects to the function centre speakers. Call Me Maybe starts playing. The man looks embarrassed for a moment. Everyone looks at him, then he smiles and starts to dance. The voiceover says; 'Or just be yourself'.

### THE COMPLAINT

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



*Our road toll is bad enough especially for young drivers and this ad CERTAINLY doesn't promote good, safe driving practices. I wrote to Toyota and they said to contact you*

*The advertisement is a clear implicit endorsement of dangerous and irresponsible driving. The young man is bouncing around in his seat as he drives and is shown to have the music volume cranked up to "max". He is shown to draw the attention of other motorists while stopped in the vehicle (presumably at a traffic light) and to shrug off their attention with something of a smirk.*

*Goes against the current police advertising campaign for safe driving like CONCENTRATE.*

## **THE ADVERTISER'S RESPONSE**

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

*Your letter refers to a retail advertisement by Toyota Motor Corporation Australia Ltd (Toyota) featuring the C-HR (the Advertisement).*

*Toyota takes any complaints relating to its advertisements seriously. We would also like to emphasise that Toyota takes seriously its commitment to both the AANA Code of Ethics (AANA Code) and the FCAI Voluntary Code of Practice for Motor Vehicle Advertising (FCAI Code) and is aware of the potential impact of its advertising on the community as a whole. Accordingly, all advertising, including the Advertisement, is carefully reviewed to ensure both legal compliance and that community standards are respected.*

### *The Advertisement*

*By way of general summary, the Advertisement features a man driving through an urban area in a Toyota C-HR. The song 'Call Me Maybe' by Carly Rae Jepsen is playing through the vehicle stereo. The man turns the volume up and sings along to the song. He nods his head along to the beat and is clearly enjoying himself. The driver pulls up to a red traffic light. The driver's side window is down. The people in the next vehicle watch him singing along to 'Call Me Maybe'. He sees them, stops singing, looks away and frowns. He then pulls away from the traffic light, smiles again and continues singing.*

*The man pulls up to a function centre, parks the vehicle and walks inside to a business function. The voiceover says; 'Always make a good impression'. The man's phone automatically connects to the function centre speakers. Call Me Maybe starts playing. The man looks embarrassed for a moment. Everyone looks at him, then he smiles and starts to dance. The voiceover says; 'Or just be yourself'.*

*Toyota Response to Complaint under FCAI Code*



*Toyota strongly supports the safety of all participants in its Advertisements and produces all of its advertising material in line with this policy. It was not our intention to endorse or encourage people to drive in a dangerous manner.*

*The driver is in full control of the vehicle at all times during the Advertisement. He does sing and bob along to the song. However, he always maintains at least one hand on the wheel and his eyes on the road. The driver does turn his head briefly to observe the two people in the car next to him. However, this occurs whilst he is stopped at a traffic light, and the driver's hands remain on the wheel.*

*The volume in the vehicle is 'cranked up to the max' for dramatic effect to show that the driver is enjoying the song and the opportunity to 'just be himself'. Although at maximum volume, as the side windows on the C-HR and the vehicle stopped next to it at the traffic lights are rolled down, the occupants of the other vehicle can hear the song. The occupants of the other vehicle find it amusing that a young male professional would sing along to a pop song like 'Call Me Maybe'. The driver notices their expressions, is embarrassed, stops singing and pretends to be more serious. However, when he drives away, he smiles and starts singing again, as he is 'just being himself'. The driver of the C-HR and the occupants of the other vehicle all remain in full control of their vehicles at all times during this exchange.*

*The Advertisement was shot on a road approved by the local Council for filming. Conditions were closely monitored on the day to ensure that cars and pedestrians were not permitted to access the portion of the road that the driver was using while filming was taking place. Furthermore, the vehicle was travelling at very low speeds throughout the entire Advertisement.*

*While we respect the personal opinion of the complainant, Toyota strongly believes that the Advertisement is in full compliance with the relevant laws and regulations, including the FCAI Code as well as real world community standards.*

#### *Toyota Response to Complaint under AANA Code*

*While we understand that the Board will review the advertisement in its entirety against Section 2, the nature of the complaint appears to relate more specifically to Section 2.6 of the Code (Health and Safety), particularly the concern of Unsafe Behaviour whilst driving.*

*Toyota does not believe the Advertisement contains any images that:*

- are contrary to public health and safety, or*
- promote unsafe practices, bullying or unrealistic body image.*

*As noted above, at all times during the Advertisement, the driver is in full control of the vehicle.*

*Toyota is committed to the highest standards of safety and applied strict controls around the filming of the Advertisement. In doing so, we were conscious to not promote any unsafe practices within the Advertisement.*



*Given the above, we do not consider that the Advertisement contravenes the Code, having regard to Section 2.6 of the Code or otherwise.*

*In light of the above, Toyota respectfully requests that the Complaint be dismissed.*

## **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).

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 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 Toyota Kluger is a Motor Vehicles 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 the complainants' concerns that the driver in the advertisement is not concentrating on the road and is engaging in unsafe behaviour by singing/dancing along to the music.

The Panel considered clause 2(a) of the FCAI Code. Clause 2(a) requires that: '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 noted that the driver does move his upper body in time with the music, in a manner consistent with seatbelt restricted dancing. However, the Panel considered that the driver keeps his attention on the road, and there is no indication that he is driving in an unsafe manner. The Panel considered that moving within a seat while driving is not of itself a depiction of unsafe driving.



The Panel noted that the driver does have the volume in his vehicle turned to maximum, however considered that there is no road rule or legislation which prohibits loud music while driving.

The Panel noted that several scenes depict the driver with one hand on the steering wheel, such as when he changes the music volume, or while singing along to the music. The Panel considered that there are many reasons a driver may take one hand off the steering wheel while driving, and depicting such behaviour is not of itself a depiction of unsafe driving. The Panel noted that the man is not depicted as not paying attention to his surroundings and other road users.

The Panel noted a complainant's concern that the driver appears to draw the attention of others when he stops at traffic lights, and shrugs off their attention with a smirk. The Panel noted that the man does gain the attention of other drivers, however considered that he appears to be embarrassed at his choice of music. The Panel considered however that getting attention from other drivers or appearing aloof is not a depiction of unsafe driving.

The Panel noted that the Explanatory Notes of the Code provides that:  
*"Advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles. However, such devices should not be used in any way to contradict, circumvent or undermine the provisions of the Code."*

The Panel considered that the advertisement does depict a highly humorous situation, by showing a man who would be unexpected to enjoy a song mostly popular with teenage girls happily singing along in the car, and then showing his individuality by not minding when others realise he likes the song. The Panel noted that a Bluetooth sound system for a building lobby would be highly unlikely to automatically connect with the man's phone and play the song.

The Panel considered that the advertisement does not portray unsafe or menacing driving, and considered that the advertisement's use of the exaggerated depiction did not contradict, circumvent or undermine the provisions of the Code.

The Panel considered that the advertisement did not depict unsafe driving that would be likely to breach relevant Commonwealth Law were it to occur on a road or road related area.

Finding that the advertisement did not breach any other section of the FCAI Code, the Panel dismissed the complaints.