



Case Report

1	Case Number	0103/16
2	Advertiser	Hyundai Motor Company Australia Pty Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	23/03/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens on a horse being scared by lightening and bolting. The horse's owner gets in to his Hyundai Santa Fe and driving after the horse through countryside and a stream before catching up with the horse in a field. The onscreen text reads, "Tough + Gentle...Hyundai new thinking. new possibilities."

THE COMPLAINT

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

The advertisement shows a Hyundai Santa Fe being driven across a flooded section of a country road. This is inconsistent with Government warnings, such as the 'If it's flooded, forget it' campaign warning of the dangers of driving through floodwaters.

THE ADVERTISER'S RESPONSE

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

We have considered the complaint and the advertisement in question in light of the provisions of the AANA Code of Ethics ("AANA Code") and the Voluntary Code of Practice of Motor

Vehicle Advertising set by the Federal Chamber of Automotive Industries ("FCAI Code"). We note that the nature of the complaint relates generally to the AANA Code and specifically to the concern that the advertisement portrays material that is contrary to prevailing community standards on health and safety with regards to crossing floodwaters.

We have carefully considered the AANA Code and FCAI Code, and have assessed the provisions of each against the content of this advertisement. We submit that the advertisement does not breach the AANA Code or the FCAI Code on any of the grounds set out in the same.

Looking at the AANA Code, Provision 2.6 provides that advertisements "shall not depict material contrary to Prevailing Community Standards on health and safety."

The advertisement depicts a horse on a farm being spooked by a bolt of lightning then running off, causing the farmer and his daughter to search across the country in their Hyundai Santa Fe, through a series of various off-road rural terrains, including at one point, a shallow creek. The farmer and daughter eventually find the horse and calm it, then transport it back in a standard horse float.

We note the specific complaint that the creek-crossing scene in the advertisement is contrary to the flood-related safety messages that have been broadcast in Queensland recently. However, we contend that at no time was the vehicle depicted as crossing floodwaters. The scene clearly depicted the vehicle entering an existing shallow creek, which had a clear track moving into the creek indicating it is an area that is often crossed by vehicles, and was not of itself flooded or unsafe.

Further, we note that the ASB has recently considered this issue with respect to a Toyota Landcruiser commercial in Case no. 0490/15. In that case, the vehicle in question was also depicted in various off-road rural terrains, including a shallow creek and, in one instance, a flooded area. The ASB determined that the scene in which the narrator of the commercial was rescued from floodwater was contrary to Provision 2.6 of the Code. At the same time, however, the ASB also determined that a scene in which the vehicle towed another vehicle from a shallow creek was not in breach of the Code on the following basis: "The Board noted that this scenario would be common in rural areas and considered that the portrayal of a vehicle crossing a shallow creek which forms part of an official road trail is not a breach of Prevailing Community Standards". In our view, there is scope for similar consideration to be applied in respect of this Hyundai commercial.

Accordingly, we submit that the advertisement does not breach Provision 2.6, of the AANA Code, or any other provision of the same.

Although the complaint against this advertisement relates solely to the AANA Code, for completeness we have also considered the FCAI Code. In this respect, we note that at no time is there any scene in the advertisement that depicts any vehicle being driven in a manner that can be described as unsafe, menacing or reckless, nor is any indication given that the vehicle is being driven at an excessive or unsafe speed. At all times the driver of the featured vehicle is in full control of the vehicle. Although depicted in an outdoor rural environment, there is no indication of any damage to the environment being depicted.

Accordingly, we submit that the advertisement is not in breach of any provision of the FCAI Code.

In conclusion, we submit that the advertisement is completely compliant with the AANA Code and the FCAI Code, and therefore, submit that this complaint should be dismissed.

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 shows a vehicle being driven across a flooded section of a country road, which is inconsistent with Government warnings.

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 the advertisement shows the vehicle driving through a creek and considered there is no suggestion of it being floodwater. Consistent with a previous determination in case 0490/15:

“The Board acknowledged the important safety message regarding entering floodwaters but considered in this instance the vehicle is clearly shown driving in a shallow creek which does not appear to be flooded or unsafe. The Board noted that the setting of the advertisement is an off-road environment where crossing a shallow creek or river would not be uncommon”.

In the current advertisement the Board noted that the creek appears to be on the vehicle owner’s property and therefore it may be considered that the owner would know the characteristics of their property and therefore made a careful judgement about the creek.

The Board further noted that the water level does not meet the vehicle’s wheel arches, spraying up as it drives through the water.

The Board noted it had recently dismissed a similar complaint in case 0467/15.

“The Board noted the complainant’s concerns that the Queensland government is raising awareness of the dangers of floods to drivers and that this advertisement undermines that message by suggesting the Volkswagen Ute is capable of safely driving in a river. The Board acknowledged the important safety message regarding entering floodwaters but considered in this instance the vehicle is clearly shown driving in a shallow creek which does not appear to be flooded or unsafe”.

The Board considered this advertisement was similar and did not depict driving through flood waters.

The Board considered that the advertisement does not depict a situation which is contrary to the Prevailing Community standards around entering unsafe floodwater and that it does not

undermine or depict material that is contrary to Prevailing Community Standards on safety.

The Board determined that the advertisement 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.