



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

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Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0108-22
2. Advertiser :	Isuzu UTE Australia
3. Product :	Vehicle
4. Type of Advertisement/Media :	Internet - Social - Other
5. Date of Determination	25-May-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This YouTube video is 13.50 minutes long and contains various scenes of the vehicle driving, including scenes of it crossing waterways.

THE COMPLAINT

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

During the current floods, a number of deaths resulted from drivers failing to heed the message 'If it's flooded, forget it'. With that background in mind, I must object to every car advertisement on television that shows a vehicle ploughing into a creek or crossing a pool of water. It is irresponsible of advertisers to include these scenes without warning viewers of the dangers of flood waters.

Advertisers might respond that they are showing the vehicle's capabilities and that viewers can see that the water levels are safe. I would find such a response deceitful since viewers never see how deep or swift running the water becomes in mid-stream. Viewers are left with the subliminal message that the vehicle's power and technology can be relied upon to negotiate water hazards -a dangerous conclusion totally contrary to the public safety message of 'If it's flooded, forget it.'



THE ADVERTISER'S RESPONSE

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

In response to the issues raised and reason for concern, IUA appreciates that the complainant has voiced concern for the wellbeing and safety of the motorists within the vehicle and for safe off-road driving, as depicted in the Advertisement.

For the record and in accordance to the FCAI Motor Vehicle Advertising Code, Clause 2 (a) Unsafe driving\unsafe driving that would breach road rules, IUA does not condone unsafe driving practices in our Advertisements, particularly with the intent to operate a vehicle through an off-road obstacle or navigate a body of water in an unsafe manner.

All scenes depict The Vehicle (Volcanic Amber metallic, Isuzu D-MAX X-TERRAIN) was driven in a safe and conventional manner, as expected of anyone driving a 4WD through a body of water.

The Advertisement serves solely as a product feature video and does not constitute as four-wheel driving advice. All 4WD trails, obstacles, and water-crossings, which were designed for recreational four-wheel driving, were driven safely in accordance to the code, on private property (refer APPENDIX A - Advertisement location maps) with the appropriate permits.

IUA respectfully rejects the complainant's statements that the 'advertisements showing vehicles negotiating water hazards because in my [Complainant's] opinion the cumulative effect of these ads plays down the risk of flooding, elevates the capacity of the vehicle to keep drivers and passengers safe, and minimises the care that drivers should take in traversing water'.

At no time has IUA advertised any of their products to exceed the engineered wading depth capacity of 800mm when travelling at a consistent speed of 7km/h, with the Complainant acknowledging the disclaimer within The Advertisement. In response to the Complainant's statement "Not a mention of If it's flooded, forget it," it would be unreasonable to expect an Advertiser to mention the Queensland Government's 'If it's flooded, forget it' safety campaign within a product Advertisement with national reach, distributed via YouTube.

The Advertisement does not depict The Vehicle driving through floodwater, with The Vehicle only illustrated driving safely through slow-moving creeks, as outlined on the map (refer APPENDIX A - Advertisement location maps). Contrary to the Complaint, IUA does not condone the unsafe navigation of water hazards or off-road obstacles, and The Advertisement was filmed and edited in accordance to the FCAI Code.



At all points within The Advertisement, The Vehicle is seen to be safely navigating all off-road obstacles and bodies of water as per the FCAI Motor Vehicle Advertising Code, Clause 2 (a) Unsafe driving and the FCAI Code Clause 4: Depiction of Off-Road Vehicles.

In regards to The Complaint raised under the FCAI Motor Vehicle Advertising Code, Clause 2 (a) Unsafe driving practices and the Depiction of Off-Road Vehicles practices, IUA would like to stress that safe driving practices is paramount with the company's code of ethics and IUA has always and will always endeavour to comply with FCAI Code of Practice, ensuring safe and lawful operation of all vehicles within all of our Advertisements.

For consideration of IUA's position on vehicle safety, IUA actively educates Isuzu owners with the correct, safe and sustainable usage of the vehicles off-road through a monthly driver-training program, available to all Isuzu owners. This program covers the theoretical and practical aspects of off-roading, including educating drivers on their vehicle's capabilities, traversing various terrain, fording through water safely, and vehicle recovery. A copy of our water-crossing training video—which actually references the 'if it's flooded, forget it' safety campaign—can be found at <https://youtu.be/rpbu3Bg6dHQ?list=PL2Yv8N21MrUGxP9uXZDoRXyZDZwIFHvTB&t=56>; which further reinforces IUA's position on safe four-wheel driving. Details of the driver-training program can be found at www.isuzuute.com.au/experience/i-venture-club.

Due to conducting the shoot on Friday, 27th March 2020, during a period of COVID-19 restrictions, a limited team was present for the filming. However, on site at all times was Zoom Film & Television Producer, Keri Grant, who was tasked with the responsibility to carry out the film shoot to the brief, and actively ensured the content filmed was in compliance with the FCAI Code of Practice. During that period in time and leading up to the shoot, no torrential rainfall was recorded in the region, and as such, each water crossing on the outlined 4WD trails (refer APPENDIX A - Advertisement shoot call sheet and location maps) was at a low and safe level. Historical weather data can be found via BOM for the time period in question: <http://www.bom.gov.au/climate/maps/rainfall/?variable=rainfall&map=totals&period=week®ion=qd&year=2020&month=03&day=27>

With consideration of the Community Panel's questions regarding the FCAI Code Clause 2 (a): Unsafe Driving;

1. What assurances can the advertiser provide that any driving depicted in the advertisement would conform to relevant road safety regulations, were it to occur on road or road-related area?

The Vehicle depicted within the advertisement is driven safely across a selection of established 4WD tracks, on a private property, not on a gazetted road. Being an Advertisement showcasing the features and abilities of the Vehicle, the Vehicle is depicted driving safely through slow-moving and still bodies of water at various timestamps, with the sole intent of showcasing the engineered wading depth capability of up to 800mm, when travelling at a consistent speed of 7km/h. This point



has been galvanised within The Advertisement by the use of a disclaimer, see 1.8 Appendix - Isuzu D-MAX Product Video, at time: 7:45.

In response to the Complainant's statement, "At approximately 7min30sec into the ad, the voiceover advises "No matter the conditions, no matter the circumstances". The vehicle is shown bursting through water – no stopping to gauge whether it's safe or not", The Advertisement depicts a Mercury Silver D-MAX LS-U Crew Cab Ute 4x4 fording through water at a consistent pace of 7km/h, see scene Isuzu D-MAX Product Video, at time: 07:37.

By definition, "bursting through" something would refer to the deliberate intent to break something apart suddenly, uncontrollable or violently. At no time within The Advertisement was any Vehicles depicted as "bursting through water" or driving in an unsafe manner through water.

2. Can the advertiser confirm that any vehicles portrayed in the advertisement were driven within legal speed limits at all times?

The Advertisement was filmed on private property with no posted legal speed limit, but IUA can confirm that The Vehicle was driven safely by a Professional Precision Driver (see APPENDIX A - Advertisement shoot call sheet for details), at a conventional speed in accordance to the off-road tracks, with all water-crossings undertaken and filmed at a consistent speed of 7km/h.

3. Was it necessary for the advertiser to obtain any special permission/permits to undertake filming of any driving sequences depicted in the advertisement?

Yes, all necessary permits were obtained prior to filming. Due to the set location falling on private property, a Commercial Activity Permit (CAP) from QLD Parks and Wildlife Service was not required. See attached APPENDIX B - Numinbah Valley Adventure Trails Agreement for a copy of the agreement to film on the property. Footage of the Mercury Silver D-MAX LS-U Crew Cab Ute 4x4 and Cobalt Blue D-MAX LS-U Crew Cab Ute 4x4 was filmed in Otago, New Zealand, at the Queenstown-Lakes District, (refer APPENDIX A - Advertisement location maps) and a filming permit was acquired by Zoom Film & Television (refer Appendix - Zoom Film Permit # 3734260 for the filming permit). For additional information on the permits obtained, please contact the Producer, Keri Grant, Zoom Film & Television (keri@zoomfilmtv.com.au).

4. Has the advertisement been made available on the internet?

*Yes, the Advertisement is available solely on the internet:
Isuzu D-MAX Product Video <https://youtu.be/-qWKPJ2u3mI>*

With consideration of the Community Panel's questions regarding the FCAI Code Clause 3: Use of Motor Sport in Advertising;

1. What evidence can be provided to demonstrate that any scenes of motor sport or simulated motor sport are activities of a kind for which a permit would normally be available in Australia? (For example, do such scenes comply with the requirements for any of the recognised forms of motor sport governed by the National Competition



Rules of the Confederation of Australian Motor Sport (such as circuit racing, drag racing, rallying, etc.) or other similar recognised body?

2. What evidence can be provided to demonstrate that the activities in such scenes conform to the requirements of relevant rules or regulations governing safety for competitors, officials, and spectators?

In regards to FCAI Motor Vehicle Advertising Code, Clause 3 Use of motor sport in advertising, the Advertisement depicts no scenes or evidence of motorsport, with The Vehicle operated in a manner in which a recreational 4WD enthusiast would typically operate a vehicle upon established 4WD tracks.

With consideration of the Community Panel's questions regarding the FCAI Code Clause 4: Depiction of Off-Road Vehicles;

1. Do any/all vehicles portrayed being driven in an off road setting in the advertisement conform to the requirements of the definition an off road vehicle as provided in the Australian Design Rules (MC category)? If so, please outline the key criteria which are met? [1]

Yes, the Vehicles depicted within the Advertisement meet the Australian Design Rules.

2. What is the maximum number of seating positions in the vehicle/s?

The maximum number of seating positions of the Isuzu D-MAX is five.

3. Does the vehicle/s have four-wheel drive/all-wheel drive?

Yes, the Vehicle is equipped with a four-wheel drive drivetrain.

In regards to FCAI Motor Vehicle Advertising Code, Clause 4: Depiction of off-road vehicles, the Advertisement was filmed in accordance to the code, with all scenes depicting safe four-wheel driving practices. All scenes depict the driver was always in control of The Vehicle, with the driver navigating all terrain in a safe manner.

In consideration to the water crossing footage in question at various timestamps, see 1.8 Appendix - Isuzu D-MAX Product Video, at time: 4:21, Isuzu D-MAX Product Video, at time: 7:35, Isuzu D-MAX Product Video, at time: 7:45, and Isuzu D-MAX Product Video, at time: 7:57, the Vehicle is driven in a safe and controlled manner, all within the engineered wading depth capability of up to 800mm, when travelling at a consistent speed of 7km/h.

In regards to the AANA Code of Ethics, section 2.6: Advertising shall not depict material contrary to Prevailing

Community Standards on health and safety, the Advertisement was filmed and edited in accordance to the health and safety standards of local and national regulatory bodies, deeming it suitable for general audience consumption via YouTube. Contrary to the Complainant's claims, all footage depicts the safe and reasonable operation of The Vehicle.

In response to the Complainant's statement claiming, "It is irresponsible of advertisers to include these scenes without warning viewers of the dangers of flood waters," IUA



filmed and edited the video to comply with the FCAI Code Clause 4 and the AANA Code of Ethics, and it would be unreasonable to expect an advertiser to include the Queensland Government's 'If it's flooded, forget it' safety campaign within a national Advertisement.

IUA submits that the Advertisement does not breach the FCAI Motor Vehicle Advertising Code Clause 2 (a), Clause 3 or Clause 4, and meets section 2.6 of the AANA Code of Ethics, as evidence proves that The Vehicle was driven in a safe, controlled, and reasonable manner at all times.

IUA submits that the Complaint should be dismissed.

THE DETERMINATION

The Ad Standards Community Panel (Panel) was required to determine whether the material before it was in breach of the AANA Code of Ethics or 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 the advertisement depicts unsafe driving.

The Panel viewed the advertisement and noted the advertiser's response.

Is this 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 Isuzu D-MAX 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 noted that the advertisement featured a number of scenes which may raise concerns around unsafe driving, including water crossings, cars turning in a city environment and cars travelling on dirt roads.

Water crossings



The Panel noted the complainant's concerns that the advertisement depicts unsafe driving by showing vehicles crossing waterways without stopping and checking it is safe, contrary to messaging around flood safety.

The Panel acknowledged that due to recent, significant flooding in some parts of the country, the issue of people driving through flood waters is of great concern to the community.

However, the Panel considered that vehicles are still able to legally, and safely, cross existing bodies of water in the right conditions.

The Panel noted the advertiser response that at all times the vehicle had been going at a safe, low speed and had not exceeded the wading depth capability of the vehicle.

The Panel noted that there are multiple scenes of the vehicle crossing water throughout the advertisement. The Panel considered that in each scene the water appears calm and without debris, appears to be part of a four-wheel drive trail, and the weather conditions are fair. The Panel considered that the bodies of water in the advertisement appear safe to cross and there is no indication that they are flood waters.

The Panel considered that crossing waterways is a common activity when driving off-road, and that when undertaken by an appropriate vehicle on an existing track this activity is not dangerous.

The Panel considered that depicting an off-road vehicle crossing waterways safely is not a depiction which would undermine safety messaging around not crossing flood waters.

Vehicles turning in the city

The Panel noted the advertisement included scenes of vehicles turning in the city, and that it may not be immediately clear if the vehicle was indicating appropriately.

The Panel considered that the scenes were brief and had been cut together rapidly, and that this disjointed progression meant that the indication may not be clear. However, the Panel noted that an indicator could be seen when watched closely. The Panel considered that the vehicles were seen to turn safely and there was no other indication of unsafe or illegal driving in these scenes.

Cars travelling on dirt roads

The Panel noted that there were several scenes of the vehicle travelling along a dirt road where clouds of dirt are seen trailing behind them. The Panel considered that this did give the impression that the car was travelling fast. However, the Panel considered that dirt can be disturbed by a vehicle travelling at or under relevant speed limits, and that this alone was not an indication of unsafe or illegal driving.



The Panel considered that the vehicle did not appear to be travelling at excessive speeds at any point in the advertisement. The Panel considered that at all times the driver appeared to be in control and driving in a manner appropriate to the conditions.

Clause 2(a) conclusion

The Panel considered that the advertisement did not depict the vehicle engaging in unsafe driving or menacing driving which would be likely to breach relevant Commonwealth Law were it to occur on a road or road related area. The Panel considered that the advertisement did not breach Clause 2(a) of the FCAI Code.

Conclusion

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