



Case Report

1	Case Number	0125/15
2	Advertiser	Isuzu
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	15/04/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving
FCAI Motor Vehicles 2(e) Environmental damage

DESCRIPTION OF THE ADVERTISEMENT

The Isuzu D-MAX and Isuzu MU-X 60-second brand TVC depicts an Isuzu D-MAX 4x4 utility vehicle and an Isuzu MU-X 4x4 SUV vehicle driving in a variety of different locations and scenarios; including an unsealed road, sand track, quarry, river bed, and forest logging trail.

THE COMPLAINT

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

It sends the message that it is okay to ignore road rules and because they are in an all-terrain vehicle that they can do what they like to the surrounding environment by tearing up the nature strip. This action has proven fatal and should not be shown as an alternative to obeying the law.

THE ADVERTISER'S RESPONSE

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

The Advertisement depicts the four-wheel drive variant of the Isuzu D-MAX and Isuzu MU-X being driven in various on and off-road settings. The primary purpose of the Advertisement is

to establish the versatility and durability of the vehicle. This is illustrated several ways and all care was taken to preserve the environment during the filming of the Advertisement.

Isuzu UTE Australia acknowledges that the Advertisement must comply with the Federal Chamber of Automotive Industries Code of Practice Relating to Advertising for Motor Vehicles (FCAI Code). The Isuzu MU-X in the Advertisement is four-wheel drive with seating for seven. The vehicle is an off-road vehicle for the purposes of the FCAI Code as the Isuzu MU-X in the Advertisement is four-wheel drive (and otherwise meets section 4.3.3(b) of the relevant Australian Design Rule (MC category)) with the result that section 4 of the FCAI Code applies.

Section 2(e) of the FCAI code states that “Advertisers should ensure that advertisements for motor vehicles do not portray any of the following...deliberate and significant environmental damage, particularly in advertising for off-road vehicles.”

In order to demonstrate the capabilities of the vehicle, Isuzu UTE Australia showed the vehicle in on-road and off-road scenarios. Isuzu UTE Australia takes its environmental responsibilities seriously, and as such it has demonstrated the inherent capabilities of the vehicle in a responsible manner. At all times the vehicle was driven in a safe manner at safe speeds within the legally prescribed speed limits of the various locations. The driver was in complete control at all times, and the environment is not being degraded or altered by the vehicle in these sequences.

The scenario questioned by the complainant depicts an Isuzu MU-X turning off a gridlocked sealed road onto an unsealed by-road. At no time was the vehicle out of control, speeding or being driven in a “hoon” manner – nor does the scene depict careless or reckless driving. At all times the vehicle obeys the relevant applicable road laws. The vehicle correctly indicates its intended change of direction and turns off a busy road for a vacant side-road which as the next shot reveals leads off through a legitimate logging track– at no stage does the vehicle drive along a “nature strip” or road shoulder.

Section 4 of the FCAI Code provides that “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.”

In Isuzu UTE Australia’s view, the Advertisement does not portray unsafe driving, and does not show the vehicle travelling at an illegal or unsafe speed. The Advertisement’s purpose is, in part, to emphasise the ability of the vehicle to handle both on- and off-road conditions with ease. The Advertisement therefore contains legitimate depictions of the vehicle’s abilities in off-road conditions consistent with section 4 of the FCAI Code.

The advertisement, when viewed objectively by a reasonable member of the audience, would not be taken to depict unsafe driving, driving beyond the speed limit, or portray deliberate and significant environmental damage. As supported by the CAD rating, the view of Isuzu UTE Australia is that the Advertisement is compliant with the FCAI Code, and AANA Codes in all respects.

Isuzu UTE Australia submits that the Complaint should be dismissed.

THE DETERMINATION

The Advertising Standards Board (Board) 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).

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 Board decided that the material in question was published or broadcast in all of Australia or in a substantial section of Australia for payment or valuable consideration given that it was being broadcast on television in Australia. The Board determined that the material draws the attention of the public or a segment of it to a product, being an Isuzu 4x4, in a manner calculated to promote that product. The Board concluded that the material is an advertisement as defined by the FCAI Code.

The Board 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 Board determined that the Isuzu 4x4 was a Motor vehicle as defined in the FCAI Code.

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

The Board noted the complainant's concerns that the advertisement depicts a vehicle being driven in a manner which ignores the road rules and tears up a nature strip.

The Board then analysed specific sections of the FCAI Code and their application to the advertisement.

The Board noted clause 4 of the FCAI Code which permits depictions of 'the capabilities and performance of an off-road vehicle travelling over loose or unsealed surfaces, or uneven terrain...' and considered that the advertisement depicts the vehicle in a range of off road situations. The Board considered all of the situations and determined that the advertisement does not depict 'unsafe driving...or travelling at a speed which would contravene the laws of the state or territory in which the advertisement is broadcast..., were such driving to occur on a road or road related area.' The Board determined that the advertisement did not breach clause

4 of the FCAI Code.

The Board 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 Board noted the examples given in the FCAI Code include: 'Vehicles travelling at excessive speed; sudden, extreme and unnecessary changes in direction and speed of a motor vehicle...or the apparent and deliberate loss of control of a moving motor vehicle.'

The Board noted the advertisement features different makes of Isuzu 4x4 vehicles being driven in different locations. The Board noted that a vehicle is shown driving onto a side road after pulling away from a queue of traffic in a controlled manner not amounting to unsafe driving over a nature strip.

The Board considered that overall the advertisement does not portray any driving which is unsafe or which is reckless or menacing driving that would breach any Commonwealth law or the law of any State or Territory.

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

The Board considered Clause 2(e) of the FCAI Code which requires that advertisements for motor vehicles do not portray "deliberate and significant environmental damage, particularly in advertising for off-road vehicles."

The Board noted it had recently dismissed a similar advertisement for an Isuzu in case 0408/14 where:

"The Board noted the Isuzu D-Max is shown driving over sand and through streams and considered that driving vehicles with off road capabilities over these terrains is not uncommon and does not necessarily contribute to environmental damage. The Board noted that some people may consider that environmental damage can be caused by any incursions by people in vehicles into wild/environmental areas however the Board considered that the vehicle is shown to be driven in a cautious manner which is not intentionally damaging to the environment and determined that the advertisement did not breach Clause 2(e) of the FCAI Code."

The Board noted in the current advertisement that the advertised vehicles are all 4x4 vehicles and considered that it is reasonable for the advertiser to depict the product in the terrain for which it is designed. The Board considered that in all instances where the vehicles are shown

driving off-road there is no suggestion of any deliberate or significant environmental damage incurring as a result of the vehicles being shown in off-road conditions.

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

Finding that the advertisement did not breach the FCAI Code, the Board dismissed the complaint.