



## Case Report

1	Case Number	0148/17
2	Advertiser	Nissan Motor Co (Aust) Pty Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	12/04/2017
6	DETERMINATION	Dismissed

### ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving  
FCAI Motor Vehicles 2(e) Environmental damage  
2.3 - Violence Cruelty to animals

### DESCRIPTION OF THE ADVERTISEMENT

A black Nissan Navara ute is seen driving across the plains. Inside, there is a father and his son both looking excited and intrigued as they join in an epic alongside a migrating herd of wildebeest. The Navara travels across the same path as the wildebeest, through various terrains through the day and night.

he father and son are full of excitement as this journey continues. Inside the Navara, the young boy says “best holiday ever dad”.

### THE COMPLAINT

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

*A large herd of cattle being harassed by a driver with a young boy as a passenger driving erratically through the herd and the middle aged driver and the child are grinning at the fact they are scaring the animals.*

*As a nation we are trying to preserve wildlife so our kids can enjoy the ever dwindling species in ever dwindling spaces.*

*So why would Nissan think that ripping through wildlife and stirring them up completely unnecessarily, teach the young kid in the car to act responsibly toward nature in his future . C'mon , it's real stupid, and makes me think either Nissan is an immature organisation or they have some short sighted, bush-unaware, don't think about the future juveniles writing cringe worthy ads.*

## **THE ADVERTISER'S RESPONSE**

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

*Your letters detail complaints with reference number 0148/17 (the complaint) in relation to a 30 second advertisement by Nissan Motor Co. (Australia) Pty. Ltd. (Nissan) featuring the Nissan Navara vehicle (the advertisement).*

*In your letters you state that the complaints raise issues under section 2.3 of the AANA Code of Ethics (the AANA Code) and section 2(e) of the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (the FCAI Code).*

### *1. Purpose of the Advertisement*

*The advertisement was produced to showcase the power, utility, features and class leading diesel fuel economy of the Nissan Navara. The advertisement depicts a fantastical scene of a father driving his son in a Navara through a savannah, to join the migration of a herd of wildebeest.*

*Wildebeest were selected for this Navara advertisement as they are not only a powerful animal, but also undertake one of the world's longest migrations, which we believe epitomises endurance. The wildebeest has been creatively employed in the advertisement to depict a memorable narrative around strength, endurance and fuel economy.*

### *2. The complaint*

*The first complainant alleges that:*

*'A 4WD ute drives through a herd of cattle. They scatter. It rips up the creek bank,' and that 'ripping through wildlife and stirring them up completely unnecessarily,' instills irresponsible attitudes towards nature in viewers.*

*The second complainant alleges that they are concerned by:*

*'A large herd of cattle being harassed by a driver with a young boy as a passenger driving erratically through the herd and the middle aged driver and the child are grinning at the fact they are scaring the animals.'*

### *3. Nissan's response to the complaints*

*Your letters require Nissan to address the advertisement's compliance with section 2 of the AANA Code. Nissan does not believe that any issues arise under sections 2.1, 2.2, 2.4 and 2.5*

*of the AANA Code. Nissan believes that only section 2.3, and to a lesser extent section 2.6, are relevant to the complaints.*

*Your letter also requires Nissan to address the advertisement's compliance with section 2(e) of the FCAI Code.*

### *3.1 The AANA Code - Section 2.3*

*Section 2.3 of the AANA Code provides:*

*2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.*

*Nissan do not believe that any form of violence, towards either animals or humans, is portrayed in the advertisement. There is no imagery in the advertisement which shows the vehicle stirring, scattering or in any way harming or disturbing the animals. The advertisement has been created to show the Navara moving as a member of the "herd", to reference that the vehicle has similar characteristics of strength and endurance. There is certainly no form of violence portrayed, in that there is no act of actual or threatened force against an animal which results in, or has a high likelihood of resulting in, injury, death or harm to that animal.*

*Nissan wish to note that no live wildebeest were used in the making of this advertisement, and that all wildebeest are computer generated images. A "making of" video which assists to explain the development of this advertisement is available at the following link:  
<https://www.youtube.com/watch?v=Ma3A-HcO7-Q>*

*As the behind the scenes video shows, the Navara is filmed in the real environment and is the first element to be placed in the advertisement. The wildebeest are then created, developed and carefully placed into this environment to run alongside the vehicle and create the look and feel that the Navara is "at one" with the moving herd.*

*Finally, Nissan rejects any accusation that the advertisement encourages violence, harm or disturbance to animals. On the contrary, we believe the advertisement encourages a healthy appreciation of nature, even if it is in a fanciful setting. The father and son enjoy their "best holiday ever" by travelling with and observing the herd of wildebeest.*

### *3.2 The AANA Code - Section 2.6*

*Section 2.6 of the AANA Code provides:*

*2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.*

*Nissan submits that the advertisement does not depict any material contrary to prevailing community standards on health or safety. The vehicle is operated in a safe and responsible manner in accordance with a vehicle of that type, being a rugged 4x4 utility vehicle capable of traversing challenging terrain. The vehicle is driven in a controlled manner at all times, and the driver and passenger are safe and secure throughout the advertisement. We note that the advertisement was filmed under controlled conditions on private property.*

*Nissan takes great care and effort to ensure that our advertisements do not encourage any form of unsafe, illegal or reckless activity, or depict scenes or behaviour contrary to prevailing community standards in relation to health and safety. In addition, Nissan do not condone unsafe driving practices that may put humans or animals at risk.*

### *3.3 The FCAI Code – Section 2(e)*

*Section 2(e) of the FCAI Code provides:*

*2) Advertisers should ensure that advertisements for motors vehicles do not portray any of the following:*

*(e) Deliberate and significant environmental damage, particularly in advertising for off-road vehicles.*

*Nissan do not believe that the advertisement in any way condones, portrays or encourages deliberate or significant environmental damage. When preparing the advertisement, Nissan carefully considered the requirements of the FCAI Code and maintains that the advertisement meets and fully discharges Nissan's obligations under section 2(e).*

*The scene the subject of the first complaint, in which the vehicle crosses the river and ascends the river bank received our strongest focus in this regard. On a careful viewing of the advertisement and the behind the scenes video, it can be seen that the vehicle slows on exiting the river and during the ascent of the riverbank. The point of entry and exit of the river were carefully considered from both environmental and safety perspectives, and at the 0:18 second mark, it can be seen that the vehicle follows a path up the riverbank where there is minimal vegetation, and avoids both a tree and low lying scrub. We therefore disagree that the vehicle "rips up" the creek bank, as raised by the first complainant.*

*In other scenes of the advertisement, the environment is relatively barren with minimal vegetation, and we do not believe there is either deliberate or significant damage portrayed.*

*Nissan were careful throughout the entire filming of the advertisement to ensure that negligible impact to the environment was caused. Although Nissan believe that no damage to vegetation or the environment occurred throughout our filming process, if any damage did occur, Nissan do not believe this damage to be deliberate and significant damage, but minimal and incidental disturbance.*

### *4. Summary*

*Nissan takes great care when developing new television advertisements to ensure that they comply with all applicable advertising standards and codes of practice, including the FCAI Code and the AANA Code. In particular, Nissan takes matters of environmental preservation very seriously, as evidenced by our global leadership in zero-emissions mobility.*

*Nissan strongly believes that the advertisement complies with both the AANA Code and the FCAI Code. In our view, there are no acts of violence portrayed against any of the animals in the advertisement, being computer generated wildebeest which have been placed in the advertisement to give the appearance of the Navara moving "as one" with the animals and*

*reflecting similar characteristics of strength and endurance.*

*Further, Nissan does not believe that the advertisement in any way portrays deliberate or significant environmental damage, or in any way encourages unsustainable or irresponsible behaviours in relation to the environment. This is due to the careful way in which we have planned and filmed scenes such as the river crossing, to ensure zero to minimal environmental impact.*

*For the reasons above, Nissan do not believe that the advertisement breaches either the FCAI Code or the AANA Code and accordingly requests that the complaints be dismissed.*

*We look forward to receiving the results of the Board's determination.*

## **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.

Having concluded that the material was an advertisement as defined by the FCAI Code, the Board then needed to determine 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 material draws the attention of the public or a segment of it to a product being a Nissan Navara Ute in a manner calculated to promote that product. The Board determined that the Nissan Navara 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 Nissan driving over natural grassland and through a herd of wildebeest which is irresponsible and dangerous. The Board then analysed specific sections of the FCAI Code and their application to the advertisement.

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 Mazda in case 0296/16 where the advertiser had responded to say that although the CX-5 SUV is not intended for extensive off-road use the filming took place on land designated for livestock and farming to

represent the environment of the CGI cheetah.

Similarly in the current advertisement, the Board acknowledged the advertiser's statement that no live wildebeest were used in the making of this advertisement and that all wildebeest are computer generated images.

The Board considered that driving a vehicle on a field where such driving is permitted and where no lasting damage will be done to native grassland does not depict, encourage or condone intentionally damaging the environment and did not breach Clause 2 (e) of the FCAI Code.

The Board then considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised". The Board noted that the driver does not chase the animals or deliberately try and scare them away. The Board noted that the father and son move with the animals in the same direction and look with awe at how impressive they are as they continue on their path through the country side.

The Board considered that the overall depiction of the vehicle being driven among the wildebeest was not one of cruelty.

The Board determined that the advertisement did not breach section 2.3 of the Code. Finding that the advertisement did not breach the FCAI Code, the Board dismissed the complaint.