



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0186/11</b>
<b>2</b>	<b>Advertiser</b>	<b>Toyota Motor Corp Aust Ltd</b>
<b>3</b>	<b>Product</b>	<b>Vehicles</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>08/06/2011</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

Motor vehicles - Unsafe driving

### DESCRIPTION OF THE ADVERTISEMENT

A boy with a toy microphone stands singing On the Road Again by Willie Nelson in a driveway while the rest of his family pack the car. He continues singing whilst in the car, and one of his sisters is shown putting on headphones to listen to a DVD which we can see playing on a drop down screen.

### THE COMPLAINT

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

*This advert would appear to me to be totally irresponsible in as much as all the goings on loud noise from the singing, noise of the movies (DVD). How could the driver concentrate? What sort of message is this sending to young people who will one day themselves be drivers? From a road safety point of view Toyota has really messed up.*

### THE ADVERTISER'S RESPONSE

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

*Toyota Motor Corporation Australia Limited (Toyota) takes its responsibility as an advertiser very seriously. We make extensive efforts to understand and respond appropriately to community concerns and issues. Furthermore, we have established our own stringent internal review.*

*Additionally, we adhere to the Commercials Acceptance Division pre-approval process to ensure suitability before production begins, as well as final approval classification before the commercial is aired. This is a rigorous and exhaustive practice.*

*We have carefully considered the complaint and strongly disagree with the argument put forward.*

*While we respect the right of this individual to hold their view, we believe that this complaint does not accurately or fairly represent the content, tone or intention of the advertisement. Accordingly, it is our firm belief that the TVC does not breach the AAANA Advertiser Code of Ethics (AANA code) or the FCAI Voluntary code of Practice for Motor Vehicle Advertising (FCAI Code).*

*Further to your email, please find below specific response to the issue raised.*

*The boy shown singing is singing through a toy microphone; the toy does not emit sound through the vehicle. As shown in 0:08-0:11, the boy is shown singing in driveway with toy microphone, which is clearly not hooked to any device. The girl reading a book in the car at 0:17, leads one to believe that the noise level depicted does not interfere with passenger/driver concentration. When girl is shown watching DVD, note use of headphones to listen to DVD no additional sound is emitted through cabin. Toward the end of the spot, boy with toy microphone is shown singing outside of vehicle (0:28), again, cord is clearly not plugged into a device. It's apparent that the microphone is a toy, not a device that emits amplified sound through the car, and the activity in the car does not breach any code for road safety, nor does it advocate unsafe driving practices.*

*Safety in advertising is paramount to Toyota. We have taken all required steps to comply with Australian regulation to ensure our TVC does not promote reckless driving, or breach any of the state road safety rules. Based on response above, we strongly submit 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 a Toyota in a manner calculated to promote that product. 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 Toyota 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 concern that the advertisement portrays unsafe driving due to the noise created by the passengers in the vehicle which would distract the driver.

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

The Board considered clause 2(c) of the FCAI Code. Clause 2(c) requires that: Advertisements for motor vehicles do not portray ...driving practices or other practices which would, if they were to take place on a road or road-related area, 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 directly with road safety or traffic regulation.'

The Board noted that the advertisement shows a family in a Toyota and that one child is singing in to a microphone whilst another child is watching a DVD whilst wearing headphones to listen to the audio.

The Board noted that the microphone the child is singing in to is a toy and so their singing is not amplified to a level louder than normal singing. The Board noted that the child viewing the DVD is wearing headphones and so the driver is in no way distracted by this activity.

The Board considered that the advertisement depicts a normal family scenario and that children singing in a car is not a practice which breaches any law.

On the above basis, the Board determined that the advertisement does not depict unsafe driving that would breach any law and does not breach clause 2(c) of the FCAI Code.

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

