



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0194/17</b>
<b>2</b>	<b>Advertiser</b>	<b>Ford Motor Co of Aust Ltd</b>
<b>3</b>	<b>Product</b>	<b>Vehicle</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>10/05/2017</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving  
2.6 - Health and Safety Motor vehicle related  
2.6 - Health and Safety Unsafe behaviour  
2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a number of 4WD enthusiasts overcoming various off-road challenges, in Ford Everest 4WD vehicles. The scenes include driving up steep hills and through a river, where we see a passenger standing in the water as the vehicle drives through it so he can measure the depth with a stick.

## THE COMPLAINT

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

*The above action is dangerous and all Police jurisdictions in this country warn against driving through flood waters.*

*Given the number of people who are drowned while entering rivers in flood, I am concerned that the ad encourages people to do foolhardy things in cars.*

## THE ADVERTISER'S RESPONSE

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

*We have taken the complaint raised very seriously and the Everest TVC has been carefully considered by our marketing team and legal counsel.*

*In response, we'd like to point out the following:*

- The Ford Everest 4WD is a purpose-built four-wheel-drive vehicle, as is made clear throughout the commercial. The various 'drivers' cross many terrains in varying off-road environments, typical of the Australian outback, including a river. The impression the Everest TVC conveys is that the drivers are on outback off-roading holiday adventures.*
- The Ford Everest 4WD has a published water wading capability of 800mm. This capability has been vigorously tested by Ford engineers, and adheres to the Australian Design Rules.*
- The 'water wading' scene in Everest TVC depicts the Ford Everest 4WD driving through water that was less than 800mm. The vehicle drove through the water at a slow, careful speed not exceeding 7km/hour.*
- The water wading scene also shows a man standing in the river with a measuring stick, supervising the water crossing. Ford included this to promote safe off-roading practice – it is advisable for drivers to test water levels before entering water.*
- The Everest TVC shows the vehicle emerging from the water safely.*
- The water wading scene was shot under the strict supervision of Ford engineers.*

*We believe that it is clear from the Everest TVC that the river crossing was done slowly, carefully, in an appropriate vehicle, and with appropriate supervision. It does not, at any stage, suggest that the vehicle depicted is driving, or should be driven, through rivers during flood, or other floodwaters.*

*Issues arising under section 2 of the AANA Code*

*Ford Australia submits that in respect of Everest TVC, no issues arise under section 2 of the AANA Code. The Everest TVC:*

*(a) does not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief (Section 2.1 of the AANA Code);*

*(b) does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people (Section 2.2 of the AANA Code);*

*(c) does not present or portray violence unless it is justifiable in the context of the product or service advertised (Section 2.3 of the AANA Code);*

*(d) does treat sex, sexuality and nudity with sensitivity to the relevant audience (Section 2.4 of the AANA Code);*

*(e) does only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium) (Section 2.5 of the AANA Code); and*

*(f) does not depict material contrary to prevailing community standards on health and safety (Section 2.6 of the AANA Code).*

*If the ASB considers that any other issues arise under the AANA code, Ford requests the opportunity to be informed of the ASB's views in that regard so that an appropriate response can be made.*

*Ford Australia strongly believes that the Everest TVC does not breach the AANA Code.*

## **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 Voluntary Code of Practice for Motor Vehicle Advertising (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 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 Board determined that the FORD Everest 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 complainants' concerns that the advertisement features a vehicle driving through a flooded creek/river which is dangerous and contrary to current warnings against this type of driving practice.

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

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 that this television advertisement depicts various Ford Everests being driven in off-road situations including driving up steep hills and across a river.

The Board noted that the terrain depicted in the advertisement is normal in many areas of Australia and considered that the vehicles appear to be driven in a safe and controlled manner which suggests that the driver is aware of the terrain and is driving appropriately to the conditions. The Board noted that the vehicles are being driven off road but considered that the style of driving shown would not breach road safety or traffic regulation should it occur on a public road.

The Board considered that overall the advertisement does not portray any driving which is unsafe, or 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 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 the complainants’ concerns that the advertisement depicts a vehicle driving through a flooded creek or river.

The Board noted it had previously upheld a similar complaint about a vehicle driving through a flooded field in case 0490/15 where:

“The Board noted the scene where the narrator of the advertisement is rescued from a flooded field. The Board noted the advertiser’s response that a river has burst its banks and flooded the field and that the water does not meet the vehicle’s wheel arches. The Board noted that it is not clear in the advertisement where the water in the field has come from but with the image of a river in the background it appears to be flood water . The Board noted the Queensland government is raising awareness of the dangers of floods to drivers (<https://www.fire.qld.gov.au/communitysafety/downloadlibrary/pdf/Swiftwater-Web.pdf>) and considered that there was significant community concern around this issue.

The Board noted that the level of the water does not meet the vehicle’s wheel arches but considered it was not clear whether the water level was rising or not and that the fact the man had been stranded on a fence would suggest that the water levels had risen suddenly and caught him unaware.

The Board considered that this scene in the advertisement, of a vehicle driving through flood water was a depiction which undermines the currently community safety messages around driving through floodwater and determined that the advertisement did breach Section 2.6 of the Code.”

The Board noted in the current advertisement that the Ford Everest is shown driving through a river and considered that the river does not appear to be flooded, but rather is in normal

flow conditions, and the depiction of a man walking near the vehicle holding a measuring stick is suggestive of the driver taking appropriate health and safety precautions of assessing water depth and identifying submerged obstacles.

Overall the Board considered that the advertisement depicts a vehicle being driven in an outdoor environment familiar to many Australians and in a manner designed to show off the vehicle's capabilities in regard to published capacity to be driven through water rather than encourage unsafe driving.

Finding that the advertisement did not breach the FCAI Code or the Code of Ethics on any grounds, the Board dismissed the complaints.