



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0203/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Ford Motor Co of Aust Ltd</b>
<b>3</b>	<b>Product</b>	<b>Vehicles</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Internet</b>
<b>5</b>	<b>Date of Determination</b>	<b>13/06/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.3 - Violence Cruelty to animals

### DESCRIPTION OF THE ADVERTISEMENT

Two cane toads sitting on a road discussing the secretions from their paratoid glands before moving the discussion to a car approaching in the distance. The toads don't have enough time to move off the road and one of them is squashed by the Falcon EcoBoost. The video was seeded on YouTube and the Falcon Facebook page.

### THE COMPLAINT

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

*Senseless violence against an animal. What kind of message does this send about the treatment of animals?*

### THE ADVERTISER'S RESPONSE

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

*Introduction*

*At the outset, I would like to emphasise that Ford Australia takes seriously its commitment to the AANA Code of Ethics (AANA Code) and the FCAI Voluntary Code of Practice for Motor Vehicle Advertising (FCAI Code) and we are aware of the potential impact that our advertising may have on members of the public.*

*All of our advertising, including the EcoBoost Video, is carefully reviewed in that context. In this instance, we firmly believe that the scenario depicted in the EcoBoost Video does not breach the AANA Code or the FCAI Code.*

*The complaint referred to in your letter dated 18 May 2012 alleges that the EcoBoost Video depicts footage of senseless violence against an animal. In the ASB's letter of 18 May 2012 you have indicated that the issue raised by the complaint is whether the EcoBoost Video contravenes section 2.3 of the AANA Code. This section prohibits Advertising or Marketing Communications presenting or portraying violence unless it is justifiable in the context of the product or service advertised. The ASB has also asked Ford to address any issues that may arise under section 2 of the AANA Code generally and any other applicable code, such as the FCAI Code.*

#### *Description of the advertisement*

*The EcoBoost Video depicts two cane toads, which are native to Central and South America, having a conversation in the middle of a country road on the top of a hill at night. The cane toads are clearly not real living cane toads as they are having a conversation with each other. They are in fact mechanical cane toads manufactured for the purposes of this advertisement. The initial conversation between the two cane toads, Ralphie (who is highly intelligent) and Les (who is clearly not very intelligent), centres on the venom secreted from their parotid glands and the deadly effect that this toxin has on most Australian wildlife. Ralphie informs Les that the white secretion from his parotid glands is poisonous, however Les proceeds to lick the secretion from his own glands. Ralphie also informs Les that in some cultures the secretion is regarded as an aphrodisiac. Les (having licked the secretion from his own glands) then informs Ralphie he is pretty. This is clearly intended to be a humorous and fantasy scenario.*

*After a short while, Les sees the headlights of an approaching vehicle and suggests moving off the road to safety. Ralphie responds by asserting that they are safe from immediate danger because the vehicle 'is only a 4 cylinder, not powerful' (based on his evaluation of the engine noise emitted from the vehicle), implying that there is ample time to move off the road as a 4 cylinder engine (being less powerful) will take longer to climb the incline.*

*Unfortunately however, Ralphie is cut short mid-sentence and meets an untimely death as the turbocharged 4 cylinder Falcon EcoBoost reaches the top of the hill much faster than he anticipated.*

#### *Allegation that advertisement depicts violence against animals in contravention of section 2.3 of the AANA Code*

*Ford Australia disagrees with any allegation that the EcoBoost Video is in breach of section 2.3 of the AANA Code by depicting violence against animals and firmly believes that the images contained therein do not portray violence against animals that is not justifiable in the context of the product advertised.*

*Ford Australia would like to emphasise that it does not support or condone violence against animals under any circumstances and whilst the EcoBoost Video does depict the death of a cane toad, this use of violence is justified in the context of the product advertised.*

*The creative intention of the EcoBoost Video is to highlight the performance characteristics of the turbocharged 4 cylinder Falcon EcoBoost, principally its power and torque outputs. The Ford Falcon has historically been manufactured with a 6 cylinder engine. The Falcon EcoBoost vehicle however, comes with a turbocharged 4 cylinder engine. The creative intent behind the EcoBoost Video is to depict a fantasy scenario and use humour to demonstrate the*

*fact that despite the Falcon EcoBoost vehicle possessing only a 4 cylinder engine, it retains the power and performance of a traditional 6 cylinder vehicle. Ralphie meets his untimely death because he has underestimated the ability of the Falcon EcoBoost to climb to the top of the hill Les and himself are sitting on. Ford Australia submits that this is a justifiable use of humour and fantasy or stylised violence to demonstrate the power characteristics of the new four cylinder Falcon EcoBoost. Further, no actual animals were injured during the filming of the EcoBoost Video.*

*Ford also emphasises that at the time of their introduction at the very beginning of the EcoBoost Video, Ralphie and Les are depicted sitting in the middle of the roadway and they do not move from that position. The driver of the vehicle does not swerve to impact Ralphie and there is no evidence that the driver is even aware that Les and Ralphie are on the road. Ralphie's death arises from his own underestimation of the power of the four cylinder Falcon EcoBoost vehicle.*

*Ford Australia submits that because there is no deliberate violence against Ralphie depicted in the EcoBoost Video, there is no contravention of section 2.3 of the AANA Code. Ford Australia submits that to the extent section 2.3 of the AANA Code prohibits violence against animals, the policy intent behind this is that advertisements should not be seen to encourage or condone violence against animals. Ford Australia submits that there is no implicit or explicit message in the EcoBoost Video that harming animals is acceptable. Ford Australia certainly accepts that if the driver was shown to swerve to deliberately strike Ralphie, that that would contravene the AANA Code, as it would send a message that deliberate harming of animals is acceptable. There is no deliberate harming of animals in the EcoBoost Video, there is only the depiction of an event which commonly occurs on roads in Australia, namely wildlife being struck by a vehicle on a country road at night.*

*Ford Australia also submits that by employing life-like mechanical cane toads which have the ability to talk in the EcoBoost Video, it has made legitimate use of fantasy, humour and self-evident exaggeration in a creative way to demonstrate the power characteristics of the 4 cylinder Falcon EcoBoost. The FCAI Code acknowledges that this is permissible in advertising.*

*In summary Ford Australia contends that:*

- (a) the EcoBoost Video legitimately uses humour and stylised or fantasy violence to demonstrate the characteristics of the Falcon EcoBoost vehicle being advertised and is therefore a justified use of violence in the context of the product advertised;*
- (b) the humour, absurdity and fantasy elements of the scenario depicted in the EcoBoost Video eliminates any potential for the EcoBoost Video to be perceived as condoning violence against animals;*
- (c) the EcoBoost Video does not depict any deliberate violence against an animal. It depicts a purely accidental death arising from Ralphie's underestimation of the power of the Falcon EcoBoost vehicle and therefore could not be said to condone violence against animals or send any harmful message; and*
- (d) the EcoBoost Video is therefore not in contravention of section 2.3 of the AANA Code.*

*Issues arising under section 2 of the AANA Code or the FCAI Code generally*

*Ford Australia submits that no issues arise under the FCAI Code or other provisions in section 2 of the AANA Code.*

*As for the FCAI Code, the Falcon EcoBoost is depicted travelling along a straight stretch of roadway at the bottom of a small incline at night with its headlights on (Reference: 47 second mark of the EcoBoost Video). The road is not marked with lanes, there are no street lights owing to the rural setting and the Falcon EcoBoost is the only vehicle in the shot. From the footage shown, it appears that the unmarked roadway is a single lane carriage way. The Falcon EcoBoost is at all times driving in a controlled manner and at an appropriate speed*

*and is maintaining a straight course of travel. The EcoBoost Video does not depict any dangerous, reckless or illegal driving and accordingly, Ford Australia contends that no issues arise under the FCAI Code.*

*Ford Australia also contends that no issues arise under the other provisions in section 2 of the AANA Code. If the ASB considers that any such issues arise, Ford requests the opportunity to be informed of the ASB's views in that regard so that an appropriate response can be made.*

*Other relevant matters*

*Ford Australia also requests the ASB to take into account the following matters.*

*Placement of the EcoBoost Video*

*Ford Australia has carefully considered the placement of the EcoBoost Video so as to seek to ensure it reaches the target audience for the Falcon vehicle, namely, males aged between 25 and 60 years. The EcoBoost Video has been placed online on the Falcon Facebook page, on various Ford Forums (generally accessed by Ford enthusiasts) and on YouTube.*

*As at today's date, statistics collected by Ford Australia indicate that the EcoBoost Video has had over 30,000 views Australia-wide. Of this total, approximately 85% of viewers represented the Falcon's target market being males aged between 25 and 60 years.*

*The EcoBoost Video has not been shown on either free-to-air or pay television and it has never been Ford Australia's intention that the EcoBoost Video would appear as a television commercial.*

*Community responses received by Ford Australia*

*Ford Australia also requests that the ASB consider the following statistics in assessing whether the EcoBoost Video contravenes the AANA Code. The EcoBoost Video has had over 130,000 views globally with only 75 'dislikes', representing less than 0.001% of viewers. In Australia, the EcoBoost Video has had over 30,000 views with less than 20 dislikes representing less than 0.001% of viewers. Less than 1 person in every 1,000 people viewing the EcoBoost Video has expressed dislike for it. Ford Australia submits that these statistics demonstrate a prevailing community view that the EcoBoost Video does not condone violence against animals nor does it offend against the sensibilities of the overwhelming majority of community members.*

*The Online Video script and an mpeg of the Online Video are attached. The script, pre-production storyboard and final edit were approved by legal counsel.*

*Ford Australia strongly believes that the EcoBoost Video does not breach the AANA Code. I trust that this correspondence adequately addresses the concerns raised in the complaint referenced, however, I would be grateful if you would contact me if you have any questions or would benefit from further input or assistance from Ford Australia.*

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted the complainant's concern that the advertisement features senseless violence against animals in its depiction of a cane toad being run over.

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

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 of the Code 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 the advertisement features two cane toads talking to one another in the middle of the road until one is run over by a Ford.

The Board noted that the cane toads used are clearly not real as they are having a conversation and that their use in the advertisement is to provide a humorous slant. The Board noted that it is not unusual for cane toads (as identified feral pests) to be run over and considered that in this instance it is clear that the car does not try to run over the toads; the toads just happen to be in the way.

The Board noted the complainant’s concerns that the advertisement features senseless violence and considered that the advertisement is using humour to highlight the quietness of the vehicle and that the toad’s fate is presented as a consequence of not hearing the car rather than a deliberate attempt to kill a toad.

The Board considered that the advertisement does not condone or encourage violence towards any animals, including toads, and that it does not present or portray violence in a manner which is unacceptable.

The Board determined that the advertisement did not breach section 2.3 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.