



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0212/15</b>
<b>2</b>	<b>Advertiser</b>	<b>Nissan Motor Co (Aust) Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Vehicle</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Billboard</b>
<b>5</b>	<b>Date of Determination</b>	<b>10/06/2015</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.3 - Violence Violence

## DESCRIPTION OF THE ADVERTISEMENT

An outdoor billboard which depicts a parked yellow and black Nissan JUKE, alongside a laughing woman splashed with matching yellow and black paint, together with the tagline "NEW JUKE MAKE A SPLASH".

## THE COMPLAINT

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

*The advert features a woman having yellow paint slashed on her face, which has nothing to do with the use or intent of the product, which degrades women.*

## THE ADVERTISER'S RESPONSE

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

*Your letter details a complaint with reference number 0212/15 (the complaint) in relation to a billboard advertisement by Nissan Motor Co. (Australia) Pty. Ltd. (Nissan) featuring its JUKE model vehicle (the advertisement).*

*In your letter you state that the complaint raises issues under Section 2 of the AANA Code of*

*Ethics (AANA Code).*

### *1. The complaint*

*The complaint is concerned with the image used in the advertisement of a woman being splashed with yellow paint: “The advert features a woman having yellow paint slashed on her face, which has nothing to do with the use or intent of the product, which degrades women.”*

### *2. Nissan’s response to the complaint*

*Nissan takes great care when developing billboards to ensure that they comply with all applicable advertising standards and codes of practice including the AANA Code and FCAI Code. To this end, great care is taken to ensure that the advertisements do not depict scenes or behaviour contrary to prevailing community standards in relation to health and safety, or encourage any form of unsafe, illegal or reckless activity. Nissan strongly believes that the advertisement complies with the AANA Code and FCAI Code.*

### *Description of the Advertisement*

*The advertisement the subject of the complaint is an outdoor billboard which depicts a parked yellow and black Nissan JUKE, alongside a woman splashed with matching yellow and black paint, together with the tagline “NEW JUKE MAKE A SPLASH”. The tagline assists the viewer to draw the link between the two images - the model being literally splashed with paint, and the vehicle “making a splash” by attracting attention due to its bold colour and design.*

*For the Board’s reference, we note that this advertisement is one of two outdoor billboards featuring the new JUKE which is concurrently on display. The second billboard is similar in style and layout to the advertisement the subject of the complaint, however depicts a parked white and blue Nissan JUKE alongside a man splashed with matching white and blue paint. This advertisement has also been attached to our response for the Board’s reference. The campaign also includes social media videos and postings featuring the same man and woman.*

### *Purpose of the Advertisement*

*The advertisement was produced to showcase the fun, bold and personalised characteristics of the new Nissan JUKE. The JUKE’s polarising design and extensive customisation options attract a unique buyer who wants to stand out from the crowd. The advertisement is part of a bold advertising campaign (including social media videos and outdoor billboards) through which Nissan seeks to dramatise the shock of colour to celebrate the individuality that stems from JUKE ownership. In particular, the tone of the entire advertising campaign, including the billboard the subject of the complaint, is one of fun, brightness and happiness which is reflected in the facial expressions of the models.*

*In the advertisements, the splashing of paint on each model echoes the respective colours of the vehicle shown, and serves to highlight two important aspects of the new JUKE:*

- firstly, the yellow and blue paint colours used in the two outdoor billboards are newly introduced colours to the JUKE range (from mid-April 2015), so the campaign highlights the*

*availability of these new colours; and*

- *secondly, the use of two paint colours splashed on each of the models, and reflected in the respective vehicles alongside them, demonstrates the colour customisation options available in the new JUKE range.*

#### *Compliance with the AANA Code*

*Your letter requires Nissan to address the advertisement's compliance with all parts of section 2 of the AANA Code. Nissan does not believe that any issues would arise under sections 2.5 (Language) or 2.6 (Health and safety).*

*The possible relevant sections of the AANA Code including those that have been listed in the complaint are sections 2.1-2.4, which provide:*

*2.1 Advertising or marketing communications shall 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.*

*2.2 Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.*

*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.*

*2.4 Advertising or marketing communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.*

#### *Section 2.1*

*Nissan submits that the advertisement 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.*

*In the context of the advertisement, the only potentially relevant category is discrimination or vilification on the basis of gender. The tone of the advertising, in particular the facial expression of the model, show that the model is engaged in, and having fun with, the creation of the image. In Nissan's view, the imagery in the advertisement does not portray or depict material which shows unfavourable treatment towards the female population, or represents the female population in an abusive or disparaging manner.*

*Also, as mentioned above, we note that as part of Nissan's advertising campaign for the new JUKE, there is another version of an outdoor billboard, also currently on display, in which a male model is splashed with paint colours reflecting the JUKE vehicle positioned alongside him.*

#### *Section 2.2*

*Nissan also submits that the advertisement does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people. The image is from the shoulders upwards and the female model is happy and smiling and nothing sexually offensive is shown or implied in the image. The image of the model, and in particular her facial expression, reflect the overall tone of the entire advertising campaign, which is one of fun, brightness and happiness. The model's facial expression conveys that she is involved and enjoying the creation of the image, and we submit that this imagery does not serve to exploit, degrade or objectify women.*

### *Section 2.3*

*Nissan submits that the advertisement does not present or portray violence of any kind. The splashing of paint on the model is portrayed in a fun way, and the model is happy and smiling and in control. The image of the model is also presented in the context of the fun nature of the heading "MAKE A SPLASH" as well as the vehicle with a matching yellow paint colour.*

### *Section 2.4*

*Nissan submits that the advertisement treats sex, sexuality and nudity with sensitivity to the relevant audience. We acknowledge that the billboard is on public display and have taken great care when producing the advertisement to ensure that nothing offensive is shown or implied in the image.*

### *The FCAI Code*

*While not specifically raised in the complaint, it is submitted that the advertisement does not depict any driving practices that would breach section 2 of the FCAI Code.*

*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. Prior to producing the advertisement, Nissan reviewed all relevant federal, State and territory road rules and regulations to ensure that the advertisement was fully compliant.*

### *3. Summary*

*The imagery used in the advertisement is designed to highlight the bold new colours and personalised characteristics of the new Nissan JUKE. While Nissan acknowledges the complainant's concerns, it is our strong view that the advertisement complies with the all applicable advertising standards and codes of practice including the AANA Code and FCAI Code, and also does not depict unsafe driving practices that breach any federal, State or territory road rules or regulations.*

*For the reasons above, Nissan requests that the complaint be dismissed.*

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

## **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 concerns that the advertisement features a woman covered in paint which has no relevance to the product advertised and is degrading to women.

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

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray 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.'

The Board noted this billboard advertisement features to the right of the billboard, an image of the vehicle (a yellow Juke) and to the left and in the foreground is a woman who has paint over her in the same black and yellow colours of the car. The tagline “new Juke, make a splash” is above the vehicle image.

The Board noted the complainant’s concern that the use of the woman in this advertisement had nothing to do with the use or intent of the product which degrades women.

The Board noted that the advertisement is for a vehicle and that the intention of the advertisement is to draw the attention of the viewer to the bright, bold colours of the new range. The Board noted the advertiser’s response that a similar billboard is also in use that includes a man splashed with the paint colours of the vehicle he is standing near (blue and white).

The Board noted that the woman’s face is clearly visible and she is smiling and appears unconcerned with being covered by paint. The Board noted that it is reasonable for an advertiser to promote their product in a creative way. The Board noted that the overall tone of the advertisement is one of fun and happiness and that the advertisement does not depict material in a way which discriminates against a person or section of the community on account of their gender.

The Board determined that the advertisement did not breach Section 2.1 of the 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 image is viewed with the paint already covering the woman and it is not evident how it got there. The Board agreed that the woman appears to have paint thrown over her and noted her facial expression suggests she is not unhappy or worried about the incident.

The Board noted that the paint colours on the woman are directly associated to the colours on the vehicle and that there is no depiction of violence or anything menacing in the advertisement.

Based on the above, 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 any other grounds, the Board dismissed the complaint.

