



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0236-22
2. Advertiser :	Toyota Motor Corporation Australia Limited
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Pay
5. Date of Determination	26-Oct-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Environmental Code\1 Truthful and Factual
AANA Environmental Code\2 Genuine Environmental Benefit

DESCRIPTION OF ADVERTISEMENT

This Pay-TV advertisement features a person going for a morning run. The runner comes to an intersection and stops to look at a Toyota Mirai. The voice over compares emissions of the vehicle and runner.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

- 1. The model of car pictured (Mirai) is not available for purchase in Australia, given there aren't any hydrogen refuelling stations open to the general public it is unlikely to be on sale here for the foreseeable future.*
- 2. Toyota doesn't sell any models in Australia that don't consume either petrol or diesel, even their hybrid vehicle models require petrol to operate.*
- 3. Trying to make themselves look more environmentally conscious than they actually are.*

THE ADVERTISER'S RESPONSE

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



1. We refer to your recent letter dated 13 October 2022 in relation to Complaint Reference 0236-22 (the Complaint) and your subsequent email dated 17 October 2022 confirming that the due date for response by Toyota was updated to 25 October 2022. Thank you for granting our request for an extension.

2. Your letter refers to an advertisement by Toyota Motor Corporation Australia Limited (Toyota) featuring a person depicted going on a run and a Toyota Mirai (the Advertisement). Toyota takes any complaints relating to its advertisements seriously including the need to meet the objectives and purpose of both the AANA Code of Ethics and AANA Environmental Claims Code. Toyota's advertising is carefully considered against both the codes, all other legal requirements and Toyota's own high standards of responsible advertising at development stage.

8. By way of general summary, the Advertisement concept was to present a powerful yet simple message that a human running emits more carbon dioxide than a Toyota Mirai vehicle's tailpipe when driving (based on evidence – see below). Toyota also wanted to raise awareness of fuel cell and hydrogen technology as an alternative fuel by selecting a simple data point to show the reality of the impact it makes.

The Complaint

9. In your letter, you advised that the Complaint was received on 10 October 2022, which stated:

*“REASON FOR CONCERN: 1. The model of car pictured (Mirai) is not available for purchase in Australia, given there aren't any hydrogen refuelling stations open to the general public it is unlikely to be on sale here for the foreseeable future
2. Toyota doesn't sell any models in Australia that don't consume either petrol or diesel, even their hybrid vehicle models require petrol to operate.
3. Trying to make themselves look more environmentally conscious than they actually are.”*

10. You have advised that the Complaint potentially falls under Sections 1(a) and 2(c) of the AANA Environmental Claims Code (AANA Environmental Code). Toyota also understands that you will review the Advertisement in its entirety against Section 2 of the AANA Code of Ethics (AANA Ethics Code) and all other sub-sections of the AANA Environmental Code.

11. Toyota responds to each of the sections of the AANA Environmental Code and each of the subsections in Section 2 of the AANA Ethics Code below.

Toyota's Response to the Complaint:

a. Toyota does not believe that the Advertisement is in breach of sections 1 to 3 of the AANA Environmental Code or section 2 of the AANA Ethics Code for the following reasons:

*Section 1 of the AANA Environmental Code – Truthful and Factual Presentation
Toyota's Environmental Goals*



12. *Toyota acknowledges that we have an important role to play in helping create a zero-carbon society and is committed to achieve its goal of zero CO2 emissions from its vehicles and plants under the Toyota Environmental Challenge 2050.*

13. *One of the steps Toyota is taking to meet these goals is through its vehicle electrification strategy, which includes the development of hydrogen fuel cell technology and hybrid vehicles.*

14. *Further details of Toyota's environmental initiatives and goals can be found in Toyota's 2021 Sustainability Report at https://www.toyota.com.au/-/media/toyota/main-site/page-data/sustainability/files/reports-2021/2021-toyota-australia-sustainability-report_final.pdf#page=16*

Advertisement Claims

15. *Toyota considers that the complainant's reasons for concerns are misconstrued and that the Claims that arise in the Advertisement are:*

- a) *Toyota has made a vehicle that emits less tailpipe CO2 than a human produces on a run; and*
- b) *the Toyota Mirai (development of hydrogen fuel cell technology) is one of Toyota's initiatives to work towards a cleaner tomorrow, ("Claims")*

Communication

16. *The Advertisement has been carefully developed to ensure that members of the community are not misled or deceived. This includes:*

- a) *displaying a disclaimer that the "Toyota Mirai emits zero tailpipe emissions" at the bottom of the screen throughout the voiceover and whenever the Mirai is depicted to qualify that the main statement in the Advertisement relates to the lack of tailpipe emissions; and*
- b) *the use of the words "working towards" in the context makes it clear that Toyota is on a pathway to a cleaner tomorrow.*

Claim Substantiation

17. *The only tailpipe emission from the Toyota Mirai is water vapour and heat as supported by the evidence set out in paragraph 24. The evidence supports the claim that a human running emits more carbon dioxide than a Toyota Mirai vehicle's tailpipe when driving.*

18. *While the Toyota Mirai is currently not available for purchase by the general public in Australia (currently only available for business fleet), the development of the Toyota Mirai and hydrogen fuel cell technology plays a role in reducing carbon emissions and supports Toyota's claim that it is 'working towards' a cleaner tomorrow.*



19. *In Toyota's view, the Advertisement is not in breach of section 1 of the AANA Environmental Code*

Section 2 of the AANA Environmental Code – A Genuine Benefit to the Environment

20. *For the reasons set out in the above paragraphs, Toyota considers that the Claims are relevant, clear and limited the environmental benefit to the Mirai having zero tailpipe carbon emission.*

21. *Toyota submits that the Claims did not overstate, whether expressly or by implication, the environmental benefits of the Mirai, which can be substantiated.*

22. *In our view, the Claims do not suggest that other vehicle alternatives are not socially acceptable. Toyota's audience are aware that Toyota promotes and supplies a range of other alternative fuel vehicles, in line with our vehicle electrification strategy.*

23. *In Toyota's view, the Advertisement is not in breach of section 2 of the AANA Environmental Code*

Section 3 of the AANA Environmental Code - Substantiation

24. *Each Claim has been verified and substantiated by the following supporting evidence:*

a. *The only tailpipe emission from the Toyota Mirai is water vapour (H₂O) and heat as this is a fuel cell electric vehicle hence produces no CO₂ tailpipe emissions. See <http://www.greenvehicleguide.gov.au/pages/LowAndZeroEmissionVehicles/HydrogenVehicleInformation>*

b. *"The average human exhales about 2.3 pounds [1.4kg] of carbon dioxide on an average day. (The exact quantity depends on your activity level—a person engaged in vigorous exercise produces up to eight times as much CO₂ as his sedentary brethren." See <https://www.nrdc.org/stories/do-we-exhale-carbon>*

Other calculations show comparable results, on average 0.9KG of Carbon Dioxide a day per human is exhaled. This assumes someone at rest, where exercising leads to a further increase in CO₂ exhaled <https://www.globe.gov/explore-science/scientists-blog/archived-posts/sciblog/2008/08/11/release-of-carbon-dioxide-by-individual-humans/comment-page-1/index.html>

25. *Toyota obtained ClearAds approval before the Advertisement was aired (See CAD Numbers & Ratings on page 1).*

26. *In Toyota's view, the Advertisement is not in breach of section 3 of the AANA Environmental Code.*



AANA Ethics Code

27. In Toyota's view, clauses 2.1 to 2.7 of the AANA Ethics Code do not apply to the Advertisement as the concepts covered by those sections do not arise in the Advertisement.

Conclusion

28. In light of the above, Toyota submits that the Complainant has misinterpreted the content of the Advertisement and the Advertisement meets the requirements of the AANA Environmental Code and the AANA Ethics Code. Toyota respectfully submits this information for due consideration by the Community Panel and requests that the Complaint be dismissed.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Environmental Claims in Advertising and Marketing Code (the Environmental Code).

The Panel noted the complainant's concerns that the advertisement is making misleading or deceptive claims as the advertised vehicle is not available for Australian customers, and that the company is representing itself as more environmentally conscious than they actually are.

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

Is an environmental claim being made?

The Panel considered whether the advertisement made an Environmental Claim.

The Environment Code applies to 'Environmental Claims' in advertising and marketing communications.

The Code defines Environmental Claims as *"any express or implied representation that an aspect of a product or service as a whole, or a component or packaging of, or a quality relating to, a product or service, interacts with or influences (or has the capacity to interact with or influence) the Environment"*.

The Panel noted that the advertisement included a number of statements which could be considered environmental claims, both in the caption and in the videos. Overall, the Panel considered that the advertisement made three main claims:

- We've made a vehicle that emits less CO₂ than a human produces on a run.



- Toyota Mirai. Fuelled by hydrogen. Toyota Mirai emits Zero tailpipe emissions.
- It's in our nature to work towards a cleaner future

1 a) Environmental Claims in Advertising or Marketing Communication shall not be misleading or deceptive or be likely to mislead or deceive

The Panel noted that the Practice Note for this section of the Environmental Code includes:

"It is not intended that legal tests be applied to determine whether advertisements are misleading or deceptive, or likely to mislead or deceive, in the areas of concern to this Code.

Instead, consideration will be given as to whether the average consumer in the target market would be likely to be misled or deceived by the material.

Factors to consider include:

An advertisement may be misleading or deceptive directly or by implication or through emphasis, comparisons, contrasts or omissions. It does not matter whether the advertisement actually misled anyone, or whether the advertiser intended to mislead – if the advertisement is likely to mislead or deceive there will be a breach of the Code.

Environmental claims relating to future matters or commitments should be based on reasonable grounds as at the time the claim was made, even if the future matter does not come to pass. The fact that a person may believe in a particular state of affairs does not necessarily mean that there are reasonable grounds for the belief.

The target market or likely audience of the advertising or marketing communication should be carefully considered when making environmental claims. Therefore all advertising should be clear, unambiguous and balanced, and the use of technical or scientific jargon carefully considered."

The Panel considered that the target market for this advertisement was general Australian consumers watching television.

The Panel considered that the advertiser had provided substantiation that the Toyota Mirai emits less carbon dioxide than a person running, and that it emits zero tailpipe emissions. The Panel considered that these claims weren't misleading and deceptive.

The Panel noted the complainant's concern that the advertised vehicle was not available to purchase in Australia. The Panel noted the advertiser's response that the vehicle is currently only available in business fleet, however it plays a role in reducing



carbon emissions and supports the claim that it is 'working towards' a cleaner tomorrow.

The Panel considered that the advertisement did not state or imply that the vehicle was currently available to be purchased by general consumers. The Panel considered that most consumers would understand the advertisement to be promoting one way in which the company is moving towards a cleaner tomorrow. The Panel considered that the advertisement was not misleading or deceptive.

1 a) conclusion

The Panel determined that the Environmental Claims were not misleading or deceptive and did not breach Section 1 a) of the Environmental Code.

2(c) Environmental Claims not imply that a product or service is more socially acceptable on the whole.

The Practice Note for this Section states:

“Consideration should be given to the relationship of the environmental claims to other aspects of a product/service. For example, advertisers should use care not to imply a product or service is more socially acceptable overall by implying another non-environmental attribute/detriment is of lesser importance.”

The Panel considered that the claims made about the environmental benefit of the product were truthful and supported by evidence. The Panel noted that the message of the advertisement was that the production of this vehicle was an example of how the company was working towards a cleaner tomorrow. The Panel considered that the advertisement did not state or imply that all vehicles manufactured by the advertiser were clean or that the company as a whole was currently 'clean'.

The Panel considered that statements made in relation to the environmental benefits of the Toyota Mirai and the company's efforts to work towards a cleaner tomorrow do not imply that the organisation is more socially acceptable as a whole.

Section 2 c) conclusion

The Panel determined that the advertisement did not breach Section 2 c) of the Environmental Code.

Conclusion

Finding that the advertisement did not breach the Environmental Code on any other grounds the Panel dismissed the complaint.