



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0250-21
2. Advertiser :	Toyota Motor Corporation Australia
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	8-Sep-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(c) Driving practices

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a number of scenes of athletes, performers and people in everyday lives taking breaths in.

A voice over states, "we live in a world where every breath is clean. Where fuel cell vehicles could one day help purify the air as we drive.

A car can be seen on the left side of a road, behind it is a bus with the words "Fuel cell bus" written on it. In the right lane, overtaking the bus and car is a truck with "Fuel cell mobility" written on it.

A disclaimer on the screen states, "Simulation Toyota prototypes shown using visual effects".

THE COMPLAINT

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

Shows a very dangerous situation where the sedan vehicle in the left hand lane is being overtaken by a semitrailer in the right lane with a third vehicle in the left lane leaving not enough room for the semi to move back to Left lane. Ahead the road



curves around a cliff obstructing the view of any approaching vehicle and far too close for the semi to complete its overtaking manoeuvre. In

THE ADVERTISER'S RESPONSE

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

We refer to your recent letter dated 27 August 2021 in relation to Complaint Reference 0250-21 (the Complaint).

Your letter refers to a retail advertisement by Toyota Motor Corporation Australia Limited (Toyota) featuring fuel cell vehicles (the Advertisement). Toyota takes any complaints relating to its advertisements seriously and responds as follows.

The Advertisement

A digital copy of the Advertisement together with the other advertisements featured in this campaign have been enclosed with this letter.

By way of general summary, the Advertisement forms part of a series of global assets created for Toyota's 2021 Tokyo Olympics "Start Your Impossible" campaign. The underlying theme of the Advertisement is to send a message that our impossible begins (and we can accomplish anything) from the moment, and with every breath we take. As part of this message, the Advertisement draws the audience's attention to Toyota's "Start Your Impossible" of raising awareness of the importance of clean air. The Advertisement takes the audience through a journey from first breath through Toyota starting the "impossible" of a cleaner emission free tomorrow, by developing zero emission vehicles powered by hydrogen fuel cells.

The Complaint

In your letter, you advise that the Complaint was received on 2 August 2021, which stated:

"(the advertisement) shows a very dangerous situation where the sedan vehicle in the left hand lane is being overtaken by a semitrailer in the right lane with a third vehicle in the left lane leaving not enough room for the semi to move back to Left lane. Ahead the road curves around a cliff obstructing the view of any approaching vehicle and far too close for the semi to complete its overtaking manoeuvre."

You have advised that the Complaint falls under Clause 2, 3 and 4 of the FCAI Code of Practice for Motor Vehicle Advertising (FCAI Code) and Section 2 of the AANA Advertiser Code of Ethics (AANA Code). Toyota responds to each of the Clauses in the FCAI Code and each of the subsections in Section 2 of the AANA Code below.

Toyota Response to Complaint



Toyota is of the view that Clauses 3 and 4 of the FCAI Code are not relevant to the Advertisement. As the concepts covered by those Clauses do not arise in the complaint.

Toyota does not believe that the driving practices depicted in the Advertisement are deemed to be unsafe under Clause 2 of the FCAI Code for the following reasons:

- The vehicles are driving on a one-way road. There is signage on the road, being an arrow pointing towards one direction to illustrate that the vehicles are all travelling in one direction with no danger of incoming traffic, as it is not a two-way road.*

- The vehicles are travelling at similar speeds, which suggests that the vehicles are maintaining the safe driving speed required.*

- Should it be the case that the fuel cell truck is seen as trying to overtake the motor car, it is safely doing so from the right hand lane and has plenty of time to accelerate even with the curve approaching – given the road is a one-way road. There is no danger of oncoming vehicles, so the truck can safely overtake despite the road curving ahead. The only vehicles travelling on the road are the truck, the motor vehicle and the bus.*

Toyota is of the view that subclauses 2.1 to 2.5 of the AANA Code are not relevant to the Advertisement. As the concepts covered by those sections do not arise in the complaint.

Section 2.6 – Health & Safety

Toyota does not believe that the driving practices depicted in the Advertisement are deemed to be unsafe for the reasons stated above in relation to Clause 2 of the FCAI Code.

Section 2.7 – Clearly Distinguishable Advertising

Toyota believes that it is clear to the relevant audience that the Advertisement is commercial in nature.

In light of the above, Toyota submits that the Complaint misinterprets the content of the Advertisement and that the Advertisement has not breached the FCAI Code or AANA Code. Consequently, Toyota requests that the Complaint be dismissed.

If you require any further assistance or information, please do not hesitate to contact me.

THE DETERMINATION

The Ad Standards Community Panel (Panel) 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).



The Panel noted the complainant's concern that the advertisement depicts unsafe driving.

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

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 Panel 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 Panel noted that this was a branding advertisement for Toyota and did not promote a particular vehicle. However, the Panel noted that the advertisement did feature a Toyota vehicle in the segment of the advertisement which is the subject of the complaint, and this branding and featuring of a passenger vehicle does meet the definition of Motor Vehicle under the FCAI Code.

The Panel determined that the material before it was an advertisement for a motor vehicle and therefore that the FCAI Code applied.

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

Clause 2(a) - 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 Panel noted the advertiser's response that the advertisement was filmed overseas and that the road depicted is one-way. The Panel noted that the scene which is the subject of the complaint does briefly depict a one-way sign (a white arrow on a blue sign) prior to the depiction of the vehicle on the road, and considered that while the one-way sign was not the same as those used in Australia it's meaning was still clear.

The Panel considered that most people viewing the advertisement would interpret the road as being one way by virtue of there being an unbroken white line on the road and considered that a vehicle overtaking without a clear view of the road ahead is not unsafe nor is it driving behaviour that would breach the law.

**Clause 2(a) conclusion**

The Panel considered that the advertisement did not breach Clause 2(a) of the FCAI Code.

Conclusion

Finding that the advertisement did not breach any other section of the FCAI Code, the Panel dismissed the complaint.