



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0251/13</b>
<b>2</b>	<b>Advertiser</b>	<b>Honda Australia Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Vehicle</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>14/08/2013</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving

### DESCRIPTION OF THE ADVERTISEMENT

The new Honda Accord is seen passing a blue coloured luxury two-door European sports car driven by an older gentleman.

The scene takes place on a country road on a bright sunny day with perfect visibility. The Honda Accord and the sports car are the only two cars visible in the scene. The Honda Accord passes the sports car and continues on its way on a picturesque country road.

### THE COMPLAINT

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

*The new Honda Accord advertisement shows how good the new model is by showing a driver overtaking another car on a blind corner. This is a horrendous oversight given that it is illegal to do so, and should NOT be shown on an advertisement where younger or inexperienced drivers may think this is achievable or legal.*

*I have a screen shot of this.*

*I believe Honda should remove that section of the vision.*

### THE ADVERTISER'S RESPONSE

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

*It is not exactly clear which of the suite of all-new Honda Accord television commercials (TVCs) is referenced by the complainant, as none of the TVCs depicts a driver overtaking another car on a blind corner. However, in the interests of providing a response to the ASB, Honda Australia has assumed that the TVC in question is the TVC attached where the all-new Honda Accord is seen passing a blue coloured luxury two-door European sports car driven by an older gentleman.*

*As outlined in the description of the TVC provided above, it must be assumed by Honda Australia that the complaint received relates to the TVC provided in this response, as there is no current Honda Australia TVC that depicts the driving claimed in the complaint. On the assumption that this is the TVC in question, Honda Australia denies the claim entirely and wishes to reiterate to the ASB how strongly it regards the FCAI Code and AANA Code of Ethics, and the ASB's role in upholding those codes through the highly successful self-regulatory framework that all motor vehicle manufacturers adhere to. Each of the operative Codes were considered in the creation of this TVC from concept to production, and legal approval was sought and received through every step of the process.*

*By way of background, the current all-new Honda Accord TVC campaign centres around the idea that we shouldn't wait until later in our lives to enjoy luxury and a high-quality motor vehicle, when it is available to us right now in the form of the more affordable all-new Honda Accord. To convey this message, we feature the all-new Honda Accord as a hero, but it is clear that the older gentlemen featuring throughout all of the TVCs are equally the heroes of this campaign.*

*It is clear from this particular TVC that the older gentleman driving the sports car is driving very conservatively. This is a commonly understood and accepted generalisation in Australia – that older people drive more conservatively than others – and it is referred to in this TVC with some creative and humorous license.*

*As the older gentleman is driving well below the speed limit, there is plenty of opportunity for the Honda Accord in this scene to accelerate safely past the sports car without breaching the speed limit. Honda Australia can confirm that at no point during the shooting of the scene did either vehicle breach the speed limit, which was 80km/h for this particular stretch of road. It is also confirmed that the sports car was not driving abnormally slowly as to cause a hazard or obstruction on the road, which would breach s 125 of the Australian Road Rules.*

*It is also important to note from the TVC that the pass commences on a broken dividing white line to the left of a single continuous dividing line, and concludes on a broken white line, which is allowable under the Australian Road Rules (ss 134 and 140). The pass is also clearly completed well before the distant bend in the road, as evidenced by the footage shown immediately after the pass where the Honda Accord is clearly seen driving along a straight stretch of road for a considerable distance. While a corner is certainly approaching far into the distance when the pass is commenced, the pass itself was completed far before the corner, entirely safely. Honda Australia can confirm that this move was supervised at the time of production and at no stage was the driver of the Honda Accord or the sports car or any other vehicle in any danger as a result of this pass.*

*Further, due to the topography of the road area and its surrounding hills, and owing to the perfect visibility on the day of shooting, the driver of the Honda Accord had (and is clearly shown to have in the TVC) perfect sight lines into, through and out of the distant corner at all times before the pass commences and during the pass itself. Again, no vehicles were approaching in the opposite direction, and this is clearly seen in the TVC itself. Further, the distant corner in question is so distant as to not be an issue, and in any event is not a "blind corner" as the complainant states.*

*The pass was entirely safe, conducted with appropriate use of indicators both before and during the pass and upon returning to the left side of the road. The pass was conducted at a reasonable speed with appropriate distances allowed between the vehicles at all times and certainly with adequate time and distance before the distant corner. The pass at no time put any drivers in risk.*

*Therefore, the pass was completed pursuant to the Australian Road Rules, and Honda Australia is certain that the footage does not depict any driving that does or would contravene road safety regulations.*

*For clarity, Honda Australia also contends strongly that the TVC does not depict any material that infringes the provisions of the AANA Code of Ethics.*

*In direct response to the complainant's statements, Honda Australia does not agree that any younger or inexperienced drivers would be negatively impacted by this vision. Further, the scene depicts nothing that is unachievable or illegal, and thus if younger or inexperienced drivers did see the TVC there is no negative outcome that could or would eventuate. If anything, the TVC is an illustration of how such passes should be conducted, rather than the opposite, which is the claim being made by the complainant in this case.*

*On the basis of the above, while Honda Australia welcomes and supports the right of individuals to raise concerns about advertising through the ASB, contrary to the complaint received in this case Honda Australia has no intention of removing any footage or material from the TVC whatsoever. Honda Australia looks forward to the ASB confirming that it shares Honda Australia's view of the matter in dismissing this complaint.*

## **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 Advertising for Motor Vehicles Voluntary Code of Practice (the FCAI Code) and the Advertiser Code of Ethics (the 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 decided that the material in question was available in Australia or in a substantial section of Australia for payment or valuable consideration.

The Board determined that the material draws the attention of the public or a segment of it to a product being a Honda Accord V6L in a manner calculated to promote that product. The Board considered that in line with previous decisions around the scope of the FCAI Code, the marketing communication is an advertisement as defined by the FCAI Code. The Board also 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 Honda Accord V6L shown in the advertisement was a 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 complainant's concerns that the advertisement depicts a vehicle overtaking another vehicle on a blind bend and that this is both illegal and irresponsible.

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 Code provides the following as examples, "Vehicles travelling at excessive speed; sudden, extreme and unnecessary changes in direction and speed of a motor vehicle..."

The Board noted that the advertisement shows a series of gentlemen getting into their cars. The gentlemen shown are mature aged and are driving vehicles of a sporty nature.

The Board noted the scene in the advertisement where the Honda is seen overtaking another vehicle. The Board noted that the scenery is indicative of a country road and there are lines clearly visible on the road. The Board noted that the lines are marked as a broken line on the left side of the line indicating that a driver is legally able to pass at this section of the road. The Board considered that the driver of the Honda does not appear to unsafely increase the speed of the vehicle and completes the overtaking manoeuvre in a sensible manner and that there was no unsafe driving in this advertisement.

Based on the above, the Board determined that the advertisement does not depict unsafe driving and does not breach clause 2(a) of the FCAI Code.

The Board then 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 that the advertisement shows one younger man getting into a Honda. The Board noted that the older men are struggling in some manner either with getting in and out of the vehicle or generally with the operation of the car and the indicators and wipers.

The Board noted that the gentlemen driving the luxury vehicles were older gentlemen. The Board noted that in connection with the song being played in the background, the drivers were presented as possibly retired and having worked a long time, would now be able to afford such luxury vehicles. The Board noted that the message being delivered was to encourage viewers to purchase a vehicle that is stylish and affordable while you are younger so that it can be enjoyed.

The Board noted that the elderly gentlemen are shown having difficulty getting into their cars and seen to be confused with the operation of some of the features and also to being driving slowly even though in a vehicle that would be capable of being driven quickly.

Some members of the Board considered that the depiction of the older men as driving badly was a negative depiction of older men. The majority of the Board considered however that the older men are depicted as being appreciative of the opportunity and fortunate to be able to drive luxury performance motor vehicles.

The Board noted that although the men are experiencing some difficulty, they are not presented in a manner that is negative or degrading to them. The Board considered that most members of the community would recognise that many 2-door sports cars are difficult to enter regardless of age and that the overall emphasis is on purchasing a performance vehicle while you are young enough to enjoy it.

The Board determined that the men were not presented in a manner that discriminates or vilifies a person or section of the community and did not breach section 2.1 of the Code.

Finding that the advertisement did not breach the FCAI Code or the Code of Ethics, the Board dismissed the complaint.