



Ad Standards Community Panel  
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AdStandards.com.au

Ad Standards Limited  
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## Case Report

1. Case Number :	0264-21
2. Advertiser :	Isuzu Ute Australia Pty Ltd
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	22-Sep-2021
6. DETERMINATION :	Dismissed

### ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(e) Environmental damage

### DESCRIPTION OF ADVERTISEMENT

There are two versions of this television advertisement, a 30 second version and a 15 second version. Both versions feature vision of the ISUZU D-MAX vehicle interspersed with vision of people on BMX bikes riding along the dirt track. The tagline 'born to play' is featured at the end of the ad.

### THE COMPLAINT

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

*Not a good ad for the environment. This is promoting destruction of the bush tracks and rivers and gives all 4wd clubs a bad name. Behaviour like this ad is showing is not acceptable. Beacuse it will lead to the government closing all the bush tracks down. Myself and my husband enjoy travelling on the bush tracks but this ad encourages people to do the wrong this and not respect the tracks and the environment.*

### THE ADVERTISER'S RESPONSE

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

*In response to the Issues raised, IUA appreciates that the complainant has voiced concern for the wellbeing and sustainability of the bush tracks depicted in the Advertisement.*



*For the record and in accordance to the FCAI Motor Vehicle Advertising Code, Clause 2 (e) Deliberate and significant environmental damage, particularly in advertising for off-road vehicles, and Clause 4 Depiction of off-road vehicles, IUA does not condone excessive or unsafe speed or driving practices in our Advertisements, particularly with the intent to damage the environment.*

*All scenes depict The Vehicle (Cobalt Blue Isuzu D-MAX 4x4 LS-M crew cab ute) was driven in a safe and conventional manner, as expected of anyone driving a 4WD on any established 4WD Track.*

*IUA respectfully rejects the complainant's statements that the 'car going through rivers and 4 wheel driving way to fast through the bush and ripping up the tracks'. In regards to The Complaint raised under the FCAI Motor Vehicle Advertising Code, Clause 2(a) Unsafe Driving practices that would breach the law, IUA would like to stress that safe driving practices is paramount with the company's code of ethics and IUA has always and will always endeavour to comply with FCAI Code of Practice, ensuring safe and lawful operation of all vehicles within all of our Advertisements. Safety and Compliance Officer, Darko Tuskan (darkotuskan.stunts@gmail.com) was present for the full duration of the shoot, and can attest to the safe practices and compliance in accordance to the FCAI Code of Practice.*

*With consideration to the Community Panel's questions;*

*1. What assurances can the advertiser provide that any driving depicted in the advertisement would conform to relevant road safety regulations, were it to occur on road or road-related area?*

*The Vehicle depicted within the advertisement is driven across a selection of established 4WD tracks on a private property, not on a gazetted road. Being an unsealed road, the 4WD track consists of dusty and loose terrain, which is reasonably expected to yield when driven over. At no point was The Vehicle driven off these tracks. See attached Appendix C – Supporting Documents, to reference the private property where established 4WD tracks driven during the Advertisement.*

*In reference to the scene IUA1757D30P - Born to Play 30, at time: 00:15 the female driver and male passenger of The Vehicle is demonstrating a lawful and responsible driving position, with the female driver's seat belt fastened and both hands on the wheel.*

*2. Can the advertiser confirm that any vehicles portrayed in the advertisement were driven within legal speed limits at all times?*

*The Advertisement was filmed on private property with no posted legal speed limit, but IUA can confirm that The Vehicle was driven safely and at a conventional speed in accordance to the off-road tracks.*

*3. Was it necessary for the advertiser to obtain any special permission/permits to undertake filming of any driving sequences depicted in the advertisement?*

*Yes, all necessary permits were obtained prior to filming. Due to the set location falling on private property, a Commercial Activity Permit (CAP) from QLD Parks and Wildlife*



*Service was not required. See attached APPENDIX D - Numinbah Valley Adventure Trails Agreement for a copy of the agreement to film on the property.*

*4. Has the advertisement been made available on the internet?*

*Yes, both versions of the Advertisement are viewable via IUA's YouTube:*

*In regards to FCAI Motor Vehicle Advertising Code, Clause 3 Use of motor sport in advertising, the Advertisement depicts no scenes or evidence of motorsport.*

*With consideration to the Community Panel's questions;*

*1. In considering whether advertising material may be covered by Clause 3 of the FCAI Code, advertisers may wish to give consideration to the following questions:*

*2. What evidence can be provided to demonstrate that any scenes of motor sport or simulated motor sport are activities of a kind for which a permit would normally be available in Australia? (For example, do such scenes comply with the requirements for any of the recognised forms of motor sport governed by the National Competition Rules of the Confederation of Australian Motor Sport (such as circuit racing, drag racing, rallying, etc.) or other similar recognised body?*

*3. What evidence can be provided to demonstrate that the activities in such scenes conform to the requirements of relevant rules or regulations governing safety for competitors, officials, and spectators?*

*The Advertisement depicts no scenes of motorsport, with The Vehicle operated in a manner in which a recreational 4WD enthusiast would typically operate a vehicle upon established 4WD tracks.*

*In regards to FCAI Motor Vehicle Advertising Code, Clause 4 Depiction of off-road vehicles, the Advertisement was filmed in accordance to the code and does not depict excessive or unsafe speed or driving practices. All scenes depict the driver was always in control of The Vehicle, with the driver buckled up with both hands on the wheel and the absence of dramatic oversteer driving practices. In consideration to the depicted established private 4WD Track consisting of loose dirt and rock terrain, it is reasonable to expect that loose dirt would be thrown up as the vehicle clambers over the terrain, see Appendix C IUA1757D30P - Born to Play 30, at time: 00:12. For consideration, the same amount of dust was thrown up by the mountain bikes as they rode over the track, confirming that the track comprised of loose dirt and it would be reasonable to conclude that the track would not be damaged by The Vehicle, see Appendix C IUA1757D30P - Born to Play 30, at time: 00:13.*

*A second scene where loose rocks are tossed up, see Appendix C IUA1757D30P - Born to Play 30, at time: 00:22.500, instils the notion that the track is loose and the grade is steep, as seen in Appendix C IUA1757D30P - Born to Play 30, at time: 00:22, and it would not be unusual to see similar Vehicle behaviour on a steep and loose track. The scene then moves onto the driver engaging the 'Rear Differential Lock', which can only be engaged in 4WD Low-Range and at a vehicle speed of less than 8kph and will only*



*remain engaged at speeds less than 28kph, see Appendix C IUA1757D30P - Born to Play 30, at time: 00:23. The engagement of the 'Rear Differential Lock' confirms the speed in which The Vehicle was driven at in this scene, which was less than 28kph. Regarding the complainant's concern for 'the car going through rivers... way to fast', The Vehicle crossed the river at a safe and controllable speed, and was at no time excessive in its operation. As per Appendix C IUA1757D30P - Born to Play 30, at time: 00:18, The Vehicle enters the waterway at a reasonable speed, as expected by anyone who is looking to successfully complete a water crossing. The amount of water displaced or splashed was reasonable and clearly illustrates that the speed and manner of which The Vehicle was driven in. A second overhead shot can be seen immediately afterwards, depicting that The Vehicle was crossing the river at a safe speed.*

*IUA submits that the Advertisement does not breach the FCAI Motor Vehicle Advertising Code Clause 2 (e), Clause 3 or Clause 4, as evidence proves that The Vehicle was driven in a safe and controlled manner at all times and with means that would not harm the 4WD Tracks depicted. IUA submits that the Complaint should be dismissed.*

## **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 is not good for the environment and promotes the destruction of bush tracks.

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

### **Is this an advertisement for a motor vehicle?**

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 determined that the D-MAX vehicle depicted as a Motor Vehicles as defined in 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.

**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 that the appearance of speed in this advertisement was due to the fast transition between scenes, and not because the vehicle was travelling at excessive speeds. The Panel noted that the driver is shown to be comfortable and in control of the vehicle and there was no indication that they were driving in an aggressive or dangerous manner.

Overall, the Panel considered that the advertisement did not contain unsafe, reckless or menacing driving that would breach the law.

#### **Clause 2(a) conclusion**

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

#### **Clause 2(e) Advertisers should ensure that advertisements for motor vehicles do not portray... Deliberate and significant environmental damage, particularly in advertising for off-road vehicles.**

The Panel noted the advertiser's response that the vehicle was driven across a selection of established 4WD tracks on private property, and at no point was the vehicle off these tracks.

The Panel noted that the vehicle was being driven in a manner consistent with recreational use of off-road vehicles, and that the advertisement depicted the vehicles' abilities in off-road conditions.

The Panel considered that the advertisement did not depict the vehicles driving in a manner which could be seen to cause deliberate or significant damage to the environment.

#### **Clause 2(e) conclusion**

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

#### **Clause 4: An advertisement may legitimately depict the capabilities and performance of an off-road vehicle travelling over loose or unsealed surfaces, or uneven terrain, not forming part of a road or road related area. Such advertisements should not portray unsafe driving and vehicles must not travel at a speed which would contravene the laws of the State or Territory in which the advertisement is published or broadcast, were such driving to occur on a road or road related area."**

The Panel considered that the advertisement depicts the capabilities and performance of an off-road vehicle travelling over terrain not forming part of a road or road related area and did not portray unsafe driving or driving at a speed which would contravene relevant laws if the driving were to occur on a road or road related



area. The Panel found that the driving in the advertisement was consistent with Clause 4 of the Code.

**Clause 4 conclusion**

The Panel determined that the advertisement did not breach Clause 4 of the FCAI Code.

**Conclusion**

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