



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0265/11</b>
<b>2</b>	<b>Advertiser</b>	<b>Chrysler Australia Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Vehicles</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>27/07/2011</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

- 2.6 - Health and Safety      within prevailing Community Standards  
2.3 - Sex/sexuality/nudity      Treat with sensitivity to relevant audience

### DESCRIPTION OF THE ADVERTISEMENT

The advert shows different people doing internet searches for a weekend escape, child minding, rock track, luxury and nice butt. Their searches all yeild the same result: a Chrysler Jeep Cherokee.

A male voiceover then says, "New Grand Jeep Cherokee Diesel. It's the ultimate search engine."

### THE COMPLAINT

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

*Jeep cherokee ad with people enetering in searches to web sites and coming up with jeep cherokee as the answer. One of the searches says child minding which as to people leaving kids in cars due to gambling drinking etc would not seem to be an ideal selling point. I was really concerned by footage of a man looking sneaky in the office searching 'nice butt' (obvious suggestion of internet pornography) - this is completely unnecessary in general but I was particularly concerned to it being frequently played during the 'state of origin' where my 7 and 6 year old sons are watching giggling at 'nice butt' not realising what it means necessarily - a sad portrayal of male sexuality and pornography and a terrible example to children. The rest of the ad is quite clever I just felt that this crossed a line in terms of appropriateness particularly being played in a time slot where many young boys will be watching the football.*

## **THE ADVERTISER'S RESPONSE**

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

*A complainant alleges that that part of the Advertisement showing a search being carried out of the key words "child minding" may encourage people to leave children in cars whilst those people go off gambling, drinking etc.*

*In the Advertisement, when the search of the key words "child minding" is carried out, what is displayed is footage of the interior of a Jeep Grand Cherokee with a child watching a program on a DVD screen (which is an optional extra which can be installed in a Jeep Grand Cherokee) whilst the vehicle is being driven by the child's mother in broad daylight. The footage is totally devoid of anything which suggests that the child is being left in the vehicle on the child's own or that the mother is intending to do anything other than entertain her child whilst they are out on a drive together.*

*As to that part of the Complaint received from another complainant, it alleges that there is a suggestion of internet pornography because the key words being searched are "nice butt". It also seems to allege that it was inappropriate for the Advertisement to be screened during the "State of Origin" rugby league match which commenced being shown on television at approximately 7.30 pm on the day of the Complaint because 6 and 7 year old boys would be watching this match and therefore be exposed to male sexuality and pornography.*

*In the Advertisement, the man who types in the key words is not looking sneaky and there is nothing whatsoever of a pornographic nature in the Advertisement. Further, the key words are never spoken, only typed in on a computer, and would have had to have been read by or to the 2 boys in order for them to be aware of the key words appearing in the Advertisement. It is also suggested that the Advertisement was screened at an appropriate time and during a programme which is not likely to be watched by 6 and 7 year old boys without parental supervision.*

### *3. AANA Advertiser Code of Ethics (the "AANA Code")*

*I note that you request CAPL to respond to the Complaint with reference to Section 2 of the AANA Code and in particular to Section 2.6 of that Code. I also note that no reference to the FCAI Code of Practice for Motor Vehicle Advertising (the "FCAI Code") is made in your letter or in either of the 2 parts of the Complaint. This section deals with the AANA Code specifically and sets out CAPL's comments in relation to the specifics of the Complaint while issues relating to the FCAI Code are dealt with in Section 4 below.*

*CAPL does not believe the Advertisement breaches any part of Section 2 of the AANA Code. In particular, it is our view that the Advertisement:*

- (a) does not discriminate or vilify any person or section of the community (section 2.1);*
- (b) does not portray violence (section 2.2);*
- (c) does not contain reference to or depiction of sex, sexuality or nudity (section 2.3);*
- (d) is not directed at children 14 years or younger and is not for goods or service facilities targeted towards children (section 2.4);*
- (e) does not contain strong or obscene language (section 2.5);*
- (f) does not depict material contrary to Prevailing Community Standards on health and safety (section 2.6);*

*For the reasons set out above, CAPL believes that there is nothing in the Advertisement which a reasonable viewer would regard as pornographic or being of a sexual nature. Further, the footage used in the Advertisement is totally devoid of anything which suggests that the child is being left in the vehicle whilst the mother of the child goes off to gamble or drink.*

*(g) does not breach the FCAI Code (section 2.7); and*

*(h) is not for food or beverage products (section 2.8).*

#### *4. The FCAI Code*

*This section addresses the FCAI Code.*

*CAPL does not believe the Advertisement breaches any part of clauses 2(a) to (e) of the FCAI Code as the Advertisement does not depict:*

*(a) any unsafe driving that would breach any Australian law. The FCAI Code refers to examples such as excessive speed, sudden, unnecessary changes in direction, unnecessarily setting motor vehicles on a collision course.*

*The Advertisement does not in any way display this.*

*(b) people driving at speeds in excess of the limit.*

*The Advertisement does not in any way display this.*

*(c) any driving practices or other actions that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction. For example, use of hand held mobile phone, not wearing seatbelts.*

*There is no evidence that the Advertisement contains depiction of any practices that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction.*

*(d) any people driving whilst fatigued or under the influence of drugs or alcohol.*

*The Advertisement does not in any way display this.*

*(e) any environmental damage whatsoever.*

*There was no environmental damage depicted or caused by the creation of this Advertisement.*

*CAPL further confirms that:*

*(i) the Advertisement has been released nationally; and*

*(ii) the Advertisement has been made available on the internet.*

*CAPL takes its responsibilities as an importer and distributor of motor vehicles seriously and this extends to CAPL's obligations under the AANA Code and the FCAI Code. When preparing advertisements including the Advertisement CAPL is conscious of the provisions of the AANA Code and the FCAI Code.*

*CAPL believes that the Advertisement was, by means of using a number of key words entered into search engines to show people images of the interior and exterior of the Jeep Cherokee, utilising modern technology and fun to advertise the Jeep Grand Cherokee with no intention to undermine the provisions of the AANA Code and/or the FCAI Code. As such, CAPL does not believe that the Advertisement breaches either the AANA Code or the FCAI Code and therefore requests that the Complaint be dismissed.*

*CAPL will endeavour to continue to produce advertisements consistent with the standards as set down by the AANA Code and the FCAI Code.*

## **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 complainants' concerns that the advertisement makes an inappropriate sexual comment and that it encourages parents to leave children in the car whilst they gamble and drink.

The Board reviewed the advertisement and noted the advertiser's response.

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone".

The Board noted the advertisement depicts various people entering descriptions in to an internet search engine and that they each get the same result: a Chrysler Jeep Cherokee. The Board noted the complainants' concerns that one of the descriptors used is 'nice butt' and that this is inappropriate.

The Board noted that the 'nice butt' descriptor yields the same results as the other ones used (child minding, luxury etc) and that we see an image of a Chrysler Jeep Cherokee from different angles to match the different descriptions.

The Board noted that 'nice butt' could be interpreted as referring to the bottom of a man or a woman, however the Board considered that in this instance it is clearly intended to refer to the vehicle being advertised.

Based on the above the Board determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and that it did not breach Section 2.3 of the Code.

The Board considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: "Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided."

The Board noted that the phrase 'nice butt' is used in the advertisement and that it could be seen by children but considered that most members of the community would consider that this language was not inappropriate and was not strong or obscene.

The Board determined that the advertisement did not breach Section 2.5 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Board noted the complainant's concerns that the advertisement encourages parents to leave their children in the car whilst they gamble or drink. The Board noted that one of the searches used in the advertisement is for child minding however in the Board's view it was extremely unlikely that members of the community would interpret this as an encouragement to leave children unattended in a vehicle. The Board noted that this search resulted in an

image of the in-car DVD entertainment system being used while the car is driving. The Board also noted that no references are made to drinking or to gambling in the advertisement and considered that the advertisement did not depict any material which went against prevailing community standards on child care or any other issue.

The Board determined that the advertisement did not depict material contrary to prevailing community standards on health and safety and did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.