



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0272-19
2. Advertiser :	General Motors Holden Australia NSC Ltd
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	11-Sep-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

There are two versions of this television advertisement:

Version one features an image of the Holden Trailblazer and a caravan in a large shed. A man can be seen welding something at the back of the caravan. A man is then seen driving the SUV towing the caravan. A voice over states, "For a limited time the seven seat Holden trailblazer comes with seven years free scheduled servicing and with three ton towing, wherever you go, whatever you tow, you got this. 7 years free scheduled servicing from the Holden trailblazer. Visit your Holden dealer today."

Version two features an image of the Holden Trailblazer and a caravan in a large shed. A man can be seen welding something at the back of the caravan. He is then seen driving on a road in the SUV with the caravan, looking nervously into the rear view mirror. A group of people in a red car drive up behind the caravan and the back of the caravan lowers to form a ramp. Motorbike riders can be seen approaching from behind the vehicle. The red car is seen approaching the caravan, then is seen in the caravan with the back ramp raising back up. The motorbike riders pass the caravan and the SUV and the driver smiles. A voice over states, "the SUV with three ton pulling power. Holden trailblazer. It's tow time."



THE COMPLAINT

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

I am a Grey Nomad and as such very aware of the ramifications of not following the laws pertaining to Towing a caravan. As far as I am aware the Laws in ALL States and territories in Australia require the to vehicle to have mirrors which can see down the side of the trailer or caravan which is being towed. The latest Holden advert shows a vehicle towing a trailer that is not fitted with mirrors that can see down each side. The general public will see that ad and think that they do not have follow the laws re towing mirrors.

I can tell you from driving hundreds of thousands of miles all over the world that the need for these mirrors is a real safety issue. Holden should ensure their ads depict situations that have the vehicles complying with relevant laws.

The vehicle set up in the ad is illegal as the car towing the caravan is not fitted with extended wing mirrors which are mandatory when towing a caravan of the size shown in the commercial. I don't find it offensive, just irresponsible of the advertiser showing something that would incur any driver a serious fine.

THE ADVERTISER'S RESPONSE

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

A description of the advertisement

The Complaint relates to an advertisement for the Holden Trailblazer, as part of the Holden's SUV range marketing campaign ("Advertisement"). The Trailblazer is Holden's tough 4x4 SUV with strong towing capability – namely a 3 tonne towing capacity offering for the many Australians who love to get out and explore our great outdoors with their caravan, boat or trailer.

The Advertisement versions are derived from the Hollywood-style Holden SUV Range Heist advertisement ("SUV Range Advertisement"), where a band of unlikely heroes use the range of Holden SUVs to steal back a painting from a mansion party and restore it to its rightful home – a public art gallery. This is discussed in more detail below. The specific role that the Trailblazer plays in the story is to conceal an escaping Holden Equinox in a custom-built caravan trailer in order to evade pursuing 'villains' on motorbikes. In doing so, our heroes are successful and return the painting to its original home.

The Advertisement features a sequence of towing shots to creatively convey the towing credentials of the vehicle. The Trailblazer winds its way through beautiful countryside effortlessly with the caravan in-tow, creatively showing what an Aussie towing adventure could be like behind the wheel of the SUV.



Holden's comments in relation to the complaint

Holden takes its legal responsibilities under the Competition and Consumer Act, AANA Advertiser Code of Ethics and the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (Code), very seriously. This reflects Holden's robust commitment to complying with advertising and motor vehicle safety regulations.

The Advertisement

The Complaint relates to an Advertisement which was broadcast on television. As stated above, the Advertisement forms part of a broader campaign. The SUV Range Advertisement is titled "A Holden Heist" and it depicts a cliché, Hollywood-style heist, where the "heroes" use a range of Holden SUVs to escape the pursuing "villains". The SUV Range Advertisement starts with the heroes performing a daring heist. The heroes jump into their Holden SUVs and are pursued by a black van and the villains on motorcycles. Using the features of each SUV, the heroes are able to escape, and return the painting to its rightful place (albeit the painting falls to the ground as some comic relief at the end of the Advertisement). Examples of this include:

- The small Trax squeezing through tight alleyways where the large black van cannot;*
- The Trax hiding in a laneway while our heroes drop through a man-hole to the waiting Equinox; - A game of cat-and-mouse between the Equinox and motorcycles in a shipyard;*
- The Equinox hiding in plain sight in front of a billboard of the same Holden Equinox; and*
- The Equinox driving into a hidden trap door at the back of a decoy caravan towed by the Trailblazer, to eventually escape for good.*

As already stated, the Advertisement versions is cut from the SUV Range Advertisement and is designed to showcase the towing credentials of the vehicle. The Trailblazer winds its way through beautiful countryside effortlessly with the caravan in-tow.

The Complaint

The concern raised by the complainant relates to the absence of extended wing mirror ("EWM") accessories fitted to the Trailblazer. The Complainant asserts that as far as they are aware, the various state laws require EWMs be fitted whenever a trailer or caravan is being towed. The Complainant asserts that Holden should ensure that its ads depict situations which are in full compliance with relevant road laws.

Relevant Road Laws and Legislation

Holden has reviewed relevant road law legislation and confirms there are no specific rules pertaining to the mandatory use of EWM when towing a caravan, boat or trailer in any state or territory in Australia. There are requirements that general rearward visibility is ensured so that proper control is maintained when driving a vehicle. It's generally accepted that rear vision mirror visibility must be maintained (as mandated in Vehicle Standard (Australian Design Rule 14/02 - Rear Vision Mirrors) 2006) and a



driver can be fined for 'failing to have a clear view of the road and traffic, ahead, behind and to each side of the driver' (as taken from Victorian Road Safety (Vehicles) Regulations 1999).

A summary of the rules and advice relevant to towing are:

- *The driver must be able to clearly see the road behind and any following or overtaking vehicle.*
- *Advice on NSW Roads & Maritime Services, Vicroads and RACV websites state that extension mirrors "may" be required for larger trailers.*
- *Extension mirrors may need to be removed when not towing (for example, this would be in order to comply with Victorian Road Safety (Vehicles) Regulations 1999 subclause 6 which states:*
 - o *Folding mirrors must not project more than 250 mm from the widest part of the vehicle / caravan.*
 - o *Non-folding mirrors must not project more than 150 mm from the widest part of the vehicle / caravan.)*
- *Sharp edges and breakaway rules would also be relevant.*

The Victorian Road Safety regulations are the only state laws that pertain to rear vision mirrors, with the relevant clause included below:

Excerpt from Victorian Road Safety (Vehicles) Regulations 1999:

35: Rear vision mirrors

(1) A rear vision mirror or mirrors must be fitted to a motor vehicle ... so that a driver of the vehicle can clearly see by reflection the road behind the vehicle and any following or overtaking vehicle.

(4) A motor vehicle with a GVM not over 3.5 tonnes (except a motor vehicle mentioned in subclause

(2) or (3)) must be fitted with—

(a) at least 1 rear vision mirror on the right side of the vehicle; and

(b) at least 1 rear vision mirror on the left side of the vehicle or inside the vehicle.

(6) However, the rear vision mirror may project not over 230 millimetres beyond the widest part of the vehicle or combination if it can fold to project not over 150 millimetres beyond the widest part.

37: Additional rear vision mirrors

A motor vehicle may be fitted with additional rear vision mirrors or mirror surfaces that are flat or convex or a combination of flat and convex surfaces.

Holden's response

The Complaint is made pursuant to clause 2(c) of the Code, which requires that advertisers ensure that their advertisements for motor vehicles do not portray driving practices or other actions which would, if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the



relevant jurisdiction in which the advertisement is published or broadcast, directly dealing with road safety or traffic regulation.

The Advertisement was filmed in New Zealand, however, has also been broadcast in Australia where the Complainant resides. The relevant laws and standards relating to driving in Australia are discussed above and contained in the appendix.

Whilst we welcome the engagement of the Australian public to ensure that safety on our roads is maintained and we acknowledge the Complainant's concern, Holden rejects the complaint as the premise of the complaint is misconceived in that there is no law specific to mirrors and EWMs beyond ensuring general rearward visibility. Holden therefore believes the Advertisement is at all times in compliance with the provisions of the relevant legislation and therefore also clause 2 of the Code.

In particular, in applying clause 2(c) of the Code to the Advertisement, we note the following:

a) Holden does not in any way condone the breach of any State, Territory or Commonwealth law and that the driver of the Trailblazer has the requisite rearward visibility

b) There is no road regulation that is relevant to the mandatory use of EWMs. Provided that mirrors must maintain adequate view of the road behind, and if that is provided by the car's original mirrors as it was for the Trailblazer featured in the advertising in question, then extension mirrors are not required.

c) The Advertisement was at all times filmed under controlled conditions by trained and experienced professionals. There was no unaccounted-for traffic, or any other potential obstacle present at any point during filming.

d) The Advertisement was rigorously reviewed by our internal legal team who came to the same conclusion.

e) Crew members present on the day of filming, and contactable upon request, can attest to the fact that all safety precautions were followed before and during the filming.

f) While the Trailblazer featured in the Advertisement does not have EWMs fitted, the 'driver of the vehicle can clearly see by reflection the road behind the vehicle and any following or overtaking vehicle.'. This is evident in two key areas:

a. In this and other similar Trailblazer-only versions of the advertisement, the driver of the vehicle clearly has vision around his vehicle owing to his awareness that the motorbikes are coming up from the road behind and proceed to overtake. This is reinforced by a self-satisfied 'You Got This'. If the driver did not have the required vision, then this relief that the heroes had evaded the villains and the self-confidence in the 'Heist' being successful, would not have been possible

b. In the original 'Holden Heist' SUV Range advertisement, the whole story is predicated on the fact that the Trailblazer driver can see the Equinox approaching from the rear and flash its lights in order to lower the ramp to the caravan and complete the escape. In this clearly clichéd and dramatised scene, the Heist escape is completed and crucially it simply would not have been possible without the driver having visibility of the road behind to know the Equinox was approaching with its flashing headlights.



g) *We note that other manufacturers have featured images and videos of comparable vehicles towing without the presence of EWMs, and as such the Advertisement is consistent with industry practise.*

While we acknowledge the current understanding of Complainant, Holden strongly believes that the Advertisement is in full compliance with the relevant laws and regulations, including the FCAI Code and AANA Code of Ethics, as well as real world community standards. Holden strongly supports the safety of all participants in its advertisements and produces all of its advertising material in line with this policy.

Conclusion

For the reason contained in this letter, it is Holden's position that the Advertisement does not breach either the FCAI Code or the AANA Code. As such, Holden submits that the Complaint should be dismissed.

A copy of the script

The Advertisement has one master version, along with regionally-specific adaptations that call out specific landmarks in each state to encourage Aussies to get out on the road and explore our 'Great Southern Land.' The master script is as follows:

AUDIO VISION

Music: One Way or the Other.

Re-edit existing brand TVC to hero towing.

MVO: For a limited time, the seven seat Holden Trailblazer comes with seven years free scheduled servicing. Super: Holden Trailblazer.

Animated graphic: 7 seat Trailblazer/7 years free scheduled servicing.

And with 3 tonne towing, wherever you go, whatever you tow... you got this.

Super: You got this.

ALT 1: 7 years free servicing on the Holden Trailblazer. Visit your Holden Dealer today.

Animated graphic: 7 years free scheduled servicing.

Cut to Holden Trailblazer logo.

Details of the CAD reference number and CAD rating

Master: G7EWPMVA (rated G)

NSW version: G7EKCMVA (rated G)

Victorian version: G7EKCMVA (rated G)

QLD version: G7EKCMVA (rated G)

SA version: G7EKCMVA (rated G)

WA version: G7EKCMVA (rated G)

NT version: G7EKCMVA (rated G)

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).

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 determined that the Holden Trailblazer was a Motor Vehicle 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.

The Panel noted that there were two versions of this television advertisement which featured the Trailblazer and caravan.

The Panel noted the complainants' concerns that the advertisement features a caravan being towed without mirrors which can see down each side which is illegal and unsafe.

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

The Panel considered clause 2(c) of the FCAI Code. Clause 2(c) requires that:

"Advertisements for motor vehicles do not portray ...driving practices or other actions which would if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation. (examples: illegal use of hand-held mobile phones or not wearing seat belts in a moving motor vehicle)."

The Panel noted the advertiser's response that there are no specific rules relating to extended wing mirror accessories when towing a vehicle in any State or Territory, and that the driver in the advertisement can clearly see by reflection the road behind the vehicle.

The Panel noted that there are no specific road rules related to the requirement for additional mirrors when towing a vehicle, rather the provisions state that the driver



must be in control of the movement of the trailer and that any driver must have a clear view of the road behind the driver.

The Panel considered that Australian Road Rule 294 states:

(2) The driver of a motor vehicle must not tow a trailer unless:

(a) the driver can control the movement of the trailer; and

(b) it is safe to tow the trailer. (<https://www.pcc.gov.au/uniform/Australian-Road-Rules-19March2018.pdf>)

The Panel noted that trailer is defined in the Australian Road Rules as “vehicle that is built to be towed, or is towed, by a motor vehicle, but does not include a motor vehicle that is being towed” and considered that a caravan would fit under this definition.

The Panel also considered that Australian Road Rule 297 states:

(2) A driver must not drive a motor vehicle unless the driver has a clear view of the road, and traffic, ahead, behind and to each side of the driver

(<https://www.pcc.gov.au/uniform/Australian-Road-Rules-19March2018.pdf>)

The Panel considered that in the first version of the advertisement the driver appeared to be in control of the movement of the trailer and was not driving in a manner which would be unsafe. The Panel considered that the caravan did not appear to be excessively wide and that there was no indication in the advertisement that the driver did not have a clear view of the road behind the vehicle through the use of the side mirrors or a rear camera. The Panel considered that the first version of the advertisement did not portray driving practices or other actions which would if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory

The Panel considered that the second version of the advertisement was clearly in a fantasy setting, and was not a realistic depiction of driving practices. The Panel considered that in the context of the fantasy scenario shown in the advertisement the driver of the vehicle was able to see the other vehicle approaching from behind, as well as see the motor bikes when they were behind and beside the caravan. The Panel considered that the driver was seen to have a clear view of the road, and traffic, ahead, behind and to each side of the driver.

The Panel noted that there was a suggestion in the advertisement that the car approaching from behind drove up the ramp and was hidden in the caravan. The Panel noted that you don't actually see the vehicle driving into the caravan or see the people still in the vehicle once it is on the caravan. The Panel considered that this behaviour would be unsafe and illegal, however considered it was clearly an exaggerated-fantasy scenario and not a realistic depiction of driving practices. The Panel considered that the second version of the advertisement did not portray driving practices or other actions which would if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory



Finding that the advertisement did not portray driving practices or other actions which would breach any commonwealth law, the Panel determined that the advertisement did not breach Clause 2(c) of the FCAI Code.

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