



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0296-19
2. Advertiser :	General Motors Holden Australia NSC Ltd
3. Product :	Automotive
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	25-Sep-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(a) Unsafe driving

DESCRIPTION OF ADVERTISEMENT

This television advertisement begins with a scene at the base of a ski slope. Two male friends arrive in their red Holden Colorado ready for a day on the slopes but realise the ski lift is 'Out of Order'. The driver says, "I got this".

Two tradies' are depicted sitting in their blue Holden Colorado, during their morning tea break. During this time, they hear a woman screaming for help, as someone has snatched her handbag. The two tradies assess the situation and believe they can easily bring this situation to a close. The driver says, "I got this".

The advertisement goes back to the red Colorado and depicts the vehicle driving up the slope.

The vision cutsback to the blue Colorado and depicts the bag snatcher running from pursuit, with the handbag he had stolen. The Tradie puts the vehicle into drive to nudge a skip bin which is in front of their parked car.

The advertisement ends with the red Colorado cresting the slope and the voiceover "With Holden Colorado, you go this".



THE COMPLAINT

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

It encourages using a vehicle as a weapon to ram pedestrians or objects into pedestrians. And encouraging dangerous driving behaviour and trespassing on to closed land and endangering lives of others.

THE ADVERTISER'S RESPONSE

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

I refer to the letter dated 9 September 2019, addressed to GM Holden Ltd (Holden). In this letter, you enclose two complaints received in relation to Holden's 'You got this!' advertisement for the Holden Colorado (Advertisement).

Holden takes its legal responsibilities under the Competition and Consumer Act seriously, as well as provisions of the AANA Advertiser Code of Ethics and the Federal Chamber of Automotive Industries Voluntary Code of Practise for Motor Vehicle Advertising.

*Applying clause 2(a) of the Code to the Advertisement:
Based on the above, Holden believes the Advertisement is at all times, in compliance with the provisions of the relevant legislation and therefore also Clause 2(a) of the Code.*

In particular, in applying clause 2(a) 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;*
- b) 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.*
- c) The Advertisement was rigorously reviewed by our internal legal team who came to the same conclusion;*
- d) Crew members present on the day of filming, and contactable upon request, can attest to the fact that no one was harmed during the filming of this Advertisement.*



- e) *One of the complaints allege that the off-road driving was ‘encouraging trespassing’ (therefore unsafe and endangers the lives of others). However, in the advertisement when the driver arrives to the scene, the sign for the Ski Lift clearly reads “Out of order” – there are no signs indicating private property, therefore ‘trespassing’ could not occur.*

In the advertisement, the Holden Colorado is travelling at a safe speed and for the climate and snowy conditions in which the advertisement is set. This is supported by the disclaimer which reads, “Model shown: Colorado Z71 4x4 Crew cab Pickup (MY20) with optional accessories (including snow tyres) fitted. Driven under controlled conditions with professional driver.”

- f) *The second complaint is in reference to the ‘Tradie’ scene, which alleges we are encouraging unsafe driving by using the vehicle as weapon, when the driver nudges the skip. In this scene, the bag snatcher is running as fast as he can and looking behind him, therefore doesn’t see the skip (until it’s too late), that he is about to fall into. In our view this does not breach the Code, as the scene is acted and produced in a comic style and is therefore over-exaggerated.*

The use of fantasy, humour and over exaggeration in the Advertisement is in accordance with the Explanatory Notes and does not in any way prevent the Advertisement complying with the Code.

We at Holden believe that most of our viewers will enjoy the Advertisement and understand that it is a parody, using humour to tell a story.

While we respect the personal opinion of the 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.

In light of the above, we therefore request this complaint 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).

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 Colorado 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 the complainant's concern that the advertisement promotes using a vehicle as a weapon and encourages dangerous driving, and depicts trespassing on closed land and endangering the lives of others.

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

The Panel 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 Panel noted the complainant's concern that advertisement promotes using a vehicle as a weapon to ram pedestrians or objects into pedestrians.

The Panel noted that the advertisement depicts a purse snatcher fleeing, and the Colorado driver drives slightly forward to nudge a skip bin, which then rolls into the purse snatcher's path and he falls into the skip bin. The Panel noted that the song "I need a hero" plays in the background.

The Panel noted the Guidance to advertisers in the FCAI Code states:

"FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles. However, such devices should not be used in any way to contradict, circumvent or undermine the provisions of the Code. In particular, it is noted that use of disclaimers indicating that a particular scene or advertisement was produced under controlled conditions; using expert drivers; that viewers should not attempt to emulate the driving depicted; or expressed in other similar terms, should be avoided. Such disclaimers cannot in any way be used to justify the inclusion of material which otherwise does not comply with the provisions of the Code."



The Panel considered that the advertisement was clearly in the context of a fantasy hero scenario, which is commonly depicted as a person stopping a purse snatcher by throwing something and hitting them, or tackling them. The Panel considered that the advertiser has used this scenario and modified it to make the Colorado vehicle and driver the hero in this context. The Panel considered that the advertisement does not encourage or celebrate such behaviour, but rather presents a fantastical and unusual method of stopping a bad person.

The Panel considered that the fantasy setting and chain of events around this setting is unlikely to encourage viewers of the advertisement to imitate the driving behaviour.

The Panel considered that the advertisement did not portray unsafe and did not depict reckless or menacing driving that would breach the law in this scene as it is clearly a fantasy.

The Panel noted the complainant's concern that the advertisement depicts the Colorado driver taking tourists up a closed ski slope which endangers their lives, and also depicts trespassing on closed land.

The Panel noted that the ski slope is not shown to be closed, rather the lift is out of order. The Panel considered that the Colorado driver is taking the tourists to the top of the hill, as evidenced by the ski lift shown in the scene at the end once they reach the top. The Panel considered that there is no indication that the vehicle occupants are trespassing.

The Panel noted the on screen disclaimer indicating that the vehicle was fitted with appropriate accessories, including snow tyres and considered that the advertisement did not portray unsafe driving and did not depict reckless or menacing driving that would breach the law in relation to this scene.

Finding that the advertisement did not breach Cause 2(a) of the FCAI Code or any other section of the FCAI Code, the Panel dismissed the complaint.