



Case Report

1	Case Number	0297/17
2	Advertiser	Hyundai Motor Company Australia Pty Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	12/07/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

- Other Social Values

2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens with a close-up of a man with a determined look on his face. The man begins running on the sidewalk and we see a shot of the man's back as he runs towards a Hyundai car dealership, eager to make it to the end of year financial sale before it ends. The man continues running and jumps through the window of the car dealership, smashing through the glass window but safely landing on his feet inside.

Two customers who are talking with a Hyundai dealer turn to stare at the man in bemusement and then, unfazed, turn back to resume their conversation with the Hyundai dealer. A receptionist in the Hyundai dealership also stares at the man with a comical look of disapproval.

THE COMPLAINT

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

A man smashes through a window to get to cars however with the many homes and businesses in Melbourne being broken into to terrorize and steal from people, I feel the ad may be upsetting. It makes me feel uncomfortable and I think it should be looked at and

perhaps removed

I was offended by the man walking through the glass showing that it is okay to do this

A man wearing a suit directly runs through the pane glass windows of a Hyundai showroom. Glass shatters all around him. This commercial resonates with a serious accident I had when I was younger. I cringe with the frequency and content of this ad, it is tasteless and rather frightening to view.

THE ADVERTISER'S RESPONSE

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

We refer to your letter concerning the three complaints received by the Advertising Standards Bureau (ASB) in respect of Hyundai Motor Company Australia's (Hyundai) "June EOFY 4 Day Sale" television advertisement (Advertisement).

The complainants allege that the advertisement raises issues under section 2.6 of the AANA Advertiser Code of Ethics (Code) which provides that:

Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

For the reasons set out below, Hyundai denies that the Advertisement infringes section 2.6 of the Code or any other section of the Code.

Background to the Advertisement

The Advertisement was created to promote the deals offered by Hyundai car dealerships during the four day end of financial year sales.

Given that Hyundai's end of financial year sales were for four days only, the Advertisement was created to be broadcast on free-to-air television for one week, ending on 18 June 2017. Accordingly, the Advertisement has now ceased to be broadcast. The brevity of the end of year financial sale and the excitement of the excellent deals offered was the subject of the Advertisement.

The Advertisement was targeted at male and female adults of all ages who were looking to buy a car in the various car dealership end of financial year sales.

The Advertisement

The overall tone of the Advertisement is tongue-in-cheek, and is clearly intended to make light of the excitement and mayhem that is often associated with consumers participating in a flash sale.

The Advertisement opens with a close-up of a man with a determined look on his face. The man begins running on the sidewalk. The Advertisement then cuts to a shot of the man's back as he runs towards a Hyundai car dealership, eager to make it to the end of year financial sale before it ends. The man continues running and jumps through the window of the car

dealership, smashing through the glass window but safely landing on his feet inside (Stunt).

Two customers who are talking with a Hyundai dealer turn to stare at the man in bemusement and then, unfazed, turn back to resume their conversation with the Hyundai dealer. A receptionist in the Hyundai dealership also stares at the man with a comical look of disapproval.

The Stunt was shot under controlled and professional circumstances in a studio, and was overseen by a stunt coordinator who detonated the safety glass prior to the stuntman crashing through it. For the duration of this scene, a prominently featured super is displayed which states "These stunts were performed under controlled circumstances".

The Advertisement was the subject of extensive internal and external approval processes, including CAD approval, prior to being broadcast. CAD granted the Advertisement a PG rating and, accordingly, the Advertisement was scheduled in accordance with the PG rating (and not adjacent to Children's and Preschool programming).

The complaint

Hyundai takes compliance with the Code very seriously. Hyundai considers that the Advertisement cannot reasonably be taken to depict material or behaviour which is contrary to prevailing community standards on health and safety or to be in contravention of any other provision of the Code.

1. Depiction of material contrary to the prevailing community standards on health and safety

The Advertisement does not depict material which is contrary to the prevailing community standards on health and safety.

"Health and safety" is not defined in the Code, meaning that the Advertising Standards Board (Board) will apply the ordinary English meaning of those words and will also consider concerns raised by the complainant, as well as other relevant factors in its determinations. "Health" is defined in the Macquarie Dictionary as "soundness of body; freedom from disease or ailment", which is clearly not relevant for consideration in respect of the Advertisement. "Safety" is defined in the Macquarie Dictionary as "the state of being safe; freedom from injury or danger; the quality of insuring against hurt, injury, danger, or risk."

Applying the ordinary meaning of "safety", the Advertisement does not present or depict conduct which is contrary to the safety standards contemplated under section 2.6 of the Code, in particular, because no one is shown to be unsafe, injured or in danger in the Advertisement. As mentioned above, in the hyperbolic Stunt scene, the man lands safely on his feet and dusts his jacket off, clearly uninjured and safe. Relevantly, in a recent decision the Board found that where a scenario is shown in an exaggerated manner, where no one is seen to be injured by a safety incident, this will normally not constitute a breach of section 2.6 of the Code (see Case 0033/15).

Reasonable viewers would consider the Stunt to be over-the-top and unrealistic. The fact that the other people present in the dealership do nothing and seem unfazed in response to the man coming through the window emphasises that this is not a realistic scenario.

It would also be clear to reasonable viewers that the scene is performed by a professional stuntman, made even more obvious by the prominent super stating “These stunts were performed under controlled circumstances”.

In light of these factors, and importantly, the Advertisement does not and could not be considered by any reasonable person to encourage or condone unsafe copy-cat behaviour in breach of the Code.

In Case 379/06, which involved stuntmen performing several stunts including smashing a bathroom mirror, leaping through a glass storefront window and falling through a glass skylight, the Board determined that the over-the-top nature of the stunts and the tongue-in-cheek nature of the advertisement meant that it was unlikely that viewers would be encouraged to engage in copycat behaviour. This finding is applicable to the Board’s consideration of the Advertisement.

2. Contravention of social values

One of the complainants expresses concern that “with many homes and businesses in Melbourne being broken into to [terrorise] and steal from people, I feel that the ad may be upsetting”.

The man performing the Stunt is shown entering the Hyundai dealership (albeit in an unconventional way) to purchase a Hyundai during the four day end of financial year sale. He is clearly not committing an act of theft or terrorism, and no reasonable person would consider that the Advertisement is making any reference to theft or terrorism whatsoever.

Other considerations under the Code

Hyundai notes that in addition to considering specific issues raised by the individual complainants, the Board will also review the Advertisement in its entirety against the Code.

For completeness, Hyundai has also considered section 2.3 of the Code below. Otherwise, Hyundai is of the view that the Advertisement does not raise any further issues under the Code.

Section 2.3 of the Code provides:

Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

The content of the Advertisement does not present or portray violence.

Depending on the circumstances, the Board considers that showing acts of vandalism can be deemed to be a portrayal of violence under section 2.3 of the Code. Hyundai acknowledges that the act of smashing a glass window could be considered to be an act of vandalism. However, in the context of the Advertisement, the Stunt shown clearly does not amount to a portrayal of violence. In particular, the Stunt is shown in a way which is not aggressive, is light-hearted and is not specifically aimed at any person. In those circumstances, the Board will normally not consider an act to be violent (see, for instance, Cases 0256/16 and 0141/17).

Additionally, the Board has previously dismissed complaints alleging that an advertisement encourages or condones vandalism where unrealistic, exaggerated scenarios were portrayed (see, for instance, Cases 0256/16 and 0141/17). The Board also noted in those determinations that it was relevant that no one was hurt in the advertisement and that there was no suggestion that the actions should be encouraged or condoned. As mentioned above, the Advertisement is unrealistic and exaggerated, and no one is hurt. The Advertisement does not encourage or condone actions which are similar to the Stunt, and a reasonable person would not consider the Advertisement to do that.

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 depicts a man jumping through a window which is dangerous and could encourage copycat behaviour.

The Board noted the complainant’s concern that the advertisement is upsetting due to the current spate of break-ins in Melbourne but considered that the advertisement does not depict a break-in and the complainant’s interpretation of the advertisement is unlikely to be shared by the broader community.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered 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 that this television advertisement depicts a man running through the window of a Hyundai dealership in order to not miss out on a good deal.

The Board noted that as the man runs through the window we see glass shattering around him. The Board noted that the footage of the man running through the window has been slowed down and considered that the overall effect is stylised and in the Board’s view the fact that the receptionist and other people inside the showroom don’t react to the man’s actions highlights the unrealistic nature of the scenario.

The Board noted the complainant’s concerns that the man’s actions in running through the window could encourage copycat behaviour. A minority of the Board noted that children could see the advertisement and considered that they could think that running through a window has no consequences due to the lack of injuries sustained by the man. A majority of the Board however considered that most members of the community, including children, would be familiar with special effects used in television and movies and would recognise that this is a commonly depicted stunt and not a man running through an actual glass window.

The Board expressed sympathy with the complainant who finds the advertisement frightening due to a personal experience but considered that most members of the community would not

find the advertisement to be frightening and in the Board's view the scenario depicted is stylised enough to be unrealistic.

Overall the majority of the Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety and determined that the advertisement 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 complaints.