



Case Report

1	Case Number	0303/12
2	Advertiser	Honda Australia Pty Ltd
3	Product	Vehicles
4	Type of Advertisement / media	TV
5	Date of Determination	08/08/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

Motor vehicles	2a Unsafe driving
Motor vehicles	2b Breaking the speed limit
Motor vehicles	2c Driving practice that would breach the law

DESCRIPTION OF THE ADVERTISEMENT

The new Honda Civic Hatch is shown driving around an urban environment (the TVC was filmed in Melbourne's CBD) while pedestrians and other road users (including all other vehicles but the Civic Hatch) are depicted as being hamstrung by big parachutes that hold them back and carry them away with the wind. The other road users and pedestrians are depicted as being horribly slowed down and inconvenienced by the parachutes, while the Civic Hatch is able to glide, in a controlled fashion, effortlessly through the city environment.

THE COMPLAINT

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

Part way through the advertisement the Honda overtakes cars on the left without using an indicator - swerving in and out of traffic.

Advertisement starts with views of the city of Melbourne (e.g. Carlton Exhibition Centre Flinders Street Station). All vehicles and pedestrians are depicted as being held back by parachutes. All except for the new Honda Civic Hatch which proceeds to accelerate past other road users changing from the right lane to the left without apparently indicating (i.e. passes on the inside at relatively high speed). Advertisement depicts a vehicle accelerating in an urban situation near pedestrians using its superior zip and acceleration to pass all other road users. Vehicle passes illegally without indicating. Once again a major motor vehicle

manufacturer has resorted to depicting its products being used in a reckless manner rather than focussing on safety and genuine product advantages.

THE ADVERTISER'S RESPONSE

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

Honda Australia acknowledges the receipt of the above referenced complaint in relation to the current Honda Civic Hatch TV commercial (the "TVC"), which has raised concerns of "unsafe driving" and "driving practice that would breach the law" under sections 2a and 2c respectively of the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (FCAI Code), one of the Codes under which the TVC is assessed. Obviously the AANA Code of Ethics is the other, and Honda Australia has responded to the complaint by below discussing the TVC's compliance with both the FCAI Code and AANA Code of Ethics.

Firstly, in direct response to the complaint, it seems there are some discrepancies between the complainants view of the TVC and the actual footage. Quite simply, the Civic Hatch performs only one lane change throughout the TVC, and it is certainly performed with the use of an indicator which is visible. Similarly, there is no swerving depicted in the TVC, and certainly no swerving in and out of traffic. With these discrepancies in mind, it is somewhat difficult to address the complaint.

However, Honda certainly respects the right of the complainant to make a submission to the ASB. So as to facilitate assessment of the complaint, Honda Australia has considered the scene approximately 13 seconds into the TVC where the Civic Hatch is seen merging into another lane (the "Merge Scene") and for the sake of argument has assumed that this is the scene that the complainant has taken issue with, as it is the only scene that bears some similarity to that contained within the complaint.

In this case, it is important to note that the vehicle depicted as being ahead of the Civic Hatch on the right hand side in the Merge Scene (a silver wagon) is coming to a stop to wait to turn right at a set of lights, while the lane that the Civic Hatch is in actually ends in its own right and merges with the lane to the left travelling in the same direction. This is not immediately apparent in the TVC, and of course it need not be, however this point may assist the ASB to understand the way that the scene is actually broken down. Please see the images attached ('reference 1') to this submission for evidence of the structure of the actual intersection depicted in the TVC to assist in your assessment. As a result of the lane merging shortly after it passes the vehicle to its left (that is held back by an oversized parachute), the Civic Hatch must therefore indicate and merge left, which it does by indicating early and leaving a more than sufficient space between all relevant vehicles.

Regarding the Merge Scene, it is imperative to note that the Civic is depicted as indicating as it drives past a vehicle and merges in from the right, again while the blue vehicle is driving ludicrously slowly as it fancifully held up by a giant oversize parachute. (Vehicles with parachutes are only moving at between 20-30kmh in this Merge Scene). Obviously the entire scene is using fantasy to illustrate the point, much like the entire TVC, however Honda understand self-evident fantasy cannot be used to avoid the other operative provisions of the FCAI Code, and does not intend to do so.

The relevant provision of the Australian Road Rules relating to merging (and more specifically, giving way when lines of traffic merge into a single line of traffic) is section 149, which provides that "a driver in a line of traffic that is merging with one or more lines of traffic travelling in the same direction as the driver must give way to a vehicle in another line of traffic if any part of the vehicle is ahead of the driver's vehicle."

It is clear that the Civic Hatch is ahead of the vehicle to its left as the merge becomes necessary, and thus, after indicating, the Civic Hatch safely and easily merges while the blue vehicle gives way without incident. When shot, the scene was very controlled, with all vehicles travelling well within applicable speed limits and with all drivers understanding and complying with their respective obligations on the road.

It is also worth noting that there was considerable distance between the blue car and the silver wagon when shooting (14 metres). This was more than ample room for the Civic Hatch to merge safely and more than the 2D camera lens would perhaps indicate.

Honda Australia takes all matters relating to road safety extremely seriously, and this certainly carries through to the depiction of driving and road scenes in its advertising. In this regard, in the case of this TVC Honda Australia engaged a member of Victoria Police during production to act as an advisor on all road scenes to ensure that the vehicle in question was always in compliance with all applicable road rules. It goes without saying that the member approved all road scenes and raised no concerns during production with any scenes or the driving of the vehicle, including the Merge Scene.

I can confirm that the lights used by the vehicle in the advertisement are daytime running lights (DRLs), which are fitted as standard equipment on all Civic Hatch models.

The vehicle depicted in the TVC is a VTi-S model which does not feature fog lamps. The attached image indicates the DRLs in operation and their location relative to the fog lamps as featured on the VTi-L model.

Regarding the remaining sections of the FCAI Code and the AANA Code, it is Honda Australia's view that there are no potential breaches or matters of interest that require discussion.

THE DETERMINATION

The Advertising Standards Board (Board) was required to determine whether the material before it was in breach of the Federal Chamber of Automotive Industries Advertising for Motor Vehicles Voluntary Code of Practice (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 Board decided that the material in question was published or broadcast in all of Australia or in a substantial section of Australia for payment or valuable consideration given that it was being broadcast on television in Australia.

The Board determined that the material draws the attention of the public or a segment of it to a product being a Honda Civic Hatch in a manner calculated to promote that product. Having concluded that the material was an advertisement as defined by the FCAI Code, the Board then needed to determine whether that 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 Board determined that the Honda Civic Hatch was a Motor vehicle as defined in the FCAI Code.

The Board determined that the material before it was an advertisement for a motor vehicle and therefore that the FCAI Code applied.

The Board noted the complainant's concerns that the advertisement depicts unsafe driving practices and illegal driving behavior by not using the vehicle indicator when changing lanes.

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

The Board 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 Board noted that the advertisement shows the new Honda Civic Hatch driving around an urban environment (in Melbourne's CBD) while pedestrians and other road users (including all other vehicles but the Civic Hatch) are depicted as being hamstrung by big parachutes that hold them back and carry them away with the wind. The other road users and pedestrians are depicted as being slowed down and inconvenienced by the parachutes, while the Civic Hatch is able to progress unrestricted through the city environment.

The Board noted that the examples given in the FCAI Code for unsafe driving include "...vehicles travelling at excessive speed; sudden extreme and unnecessary changes in direction and speed of a motor vehicle...." and considered that in this instance the vehicle is not seen to be driving at excessive speed, but moves in a controlled manner around the city streets .

The Board noted that there is no verification of the actual speed of the vehicle but that the footage is exaggerated to make the vehicles with parachutes appear labored but the Civic Hatch freely moving. The Board considered that the scenes of the Civic moving about the streets in this manner did not amount to "excessive speed or sudden extreme and unnecessary changes in direction and speed of a motor vehicle"

On the above basis, the Board determined that the advertisement does not depict unsafe driving that would breach any law and does not breach clause 2(a) of the FCAI Code.

The Board then 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.

The Board noted the complainant's concerns that the advertisement is shows changing from the right lane to the left without indicating.

The Board noted that the overall theme of the advertisement is to highlight the sleek new features of the Honda Civic and that the images of people and vehicles being held back by parachutes is clearly unrealistic.

The Board viewed the advertisement, the advertiser's response and the additional still images made available.

The Board noted that the vehicle is clearly shown to be using the indicator in the transition from right lane to left lane and the driving maneuver was undertaken in a manner consistent with Australian road rules. The Board determined that the vehicle was not portrayed using driving practices that would breach the law and did not breach clause 2(b) of the FCAI Code.

Finding that the advertisement did not breach the FCAI Code, the Board dismissed the complaint.