



Case Report

1	Case Number	0339/17
2	Advertiser	Honda Australia Pty Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	09/08/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving
2.6 - Health and Safety Motor vehicle related

DESCRIPTION OF THE ADVERTISEMENT

The advertisement portrays a journey through time, in which a central character is shown at three stages of his life – initially as a young boy, later as a twenty-something adult and finally as a middle-aged man. The vehicles depicted in the advertisement drive in large circular loops in an invented off-road environment. A billy cart and a 1990s era Honda Civic. The advertisement shows an adult version of the same boy, now the owner of his childhood dream car.

THE COMPLAINT

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

Encourages hoon driving amongst young people and dangerous driving around a young child on a bike.

Intended to appeal to young buyers which is Honda's stated market for the new Civic but has all the characteristics of depicting 'hoon driving'.

I have raised the matter with Honda Australia and have been advised that "anyone who drives like that would be a dill". However I could not get acceptance that the advertising promotes irresponsible driving behaviour. I understood all motor manufacturers had a

agreed to a voluntary code to not depict irresponsible behaviour in their advertising.

THE ADVERTISER'S RESPONSE

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

The complaint focuses on what the complainant alleges is the depiction of irresponsible driving behaviour in the advertisement. The complainant states that the advertisement shows "Honda Civic vehicles driving in opposing circles on a dirt surface at speed sufficient to throw up dirt from the wheels" and "has all the characteristics of depicting 'hoon driving'.

Honda's response to the complaint

Honda takes great care when developing advertisements to ensure that they comply with the FCAI Code and AANA Code and to ensure that our advertising does not encourage any form of unsafe, illegal or reckless driving activity or depict scenes and behaviour contrary to prevailing community standards on health and safety. We also take great care to ensure that our advertisements do not portray any vehicle being driven in a manner that could undermine the intent of either code. We strongly believe that the advertisement complies with both the FCAI Code and the AANA Code.

Compliance with the FCAI Code

Your letter notes that Section 2(a) of the FCAI Code is of relevance to the complaint. Section 2(a) of the FCAI Code relevantly states that advertisement should not portray:

2(a) Unsafe driving, including reckless and 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.

When preparing the advertisement, Honda carefully considered the requirements of the FCAI Code and maintains that the advertisement complies fully with section 2(a) of the FCAI Code as well as the intent of the FCAI Code more generally.

The complainant states that the advertisement 'depicts hoon driving'. We categorically deny this. It is possible that the complainant is concerned with the depiction of vehicles driving in large loops around an open central area. The vehicles are shown driving at low speed and the drivers are not engaging in behaviours that are typically associated with 'hoon driving', such as excessive speed, drag-racing, burnouts or 'doughnuts'. Internal shots of the drivers depict safe driving practices; for example, drivers are depicted holding the steering wheel with both hands.

The complainant states that the vehicles are being driven at 'speed sufficient to throw up dirt from the wheels'. The dirt that is actually shown coming from the wheels is very minor, and is an inevitable consequence of any vehicle being driven on an unsealed surface – it was not the result of the vehicles being driven at high speed or in an uncontrolled or erratic manner. In fact, in the production of the advertisement, Honda took great care to ensure that the driving was conducted carefully and at speeds well below the speed limits on public roads. Honda engaged a third party agency specifically to ensure that all aspects of the production of the

advertisement, including the driving of the vehicles depicted in the advertisement, were conducted safely and responsibly.

At the 15 second point of the advertisement, the speedometer can be seen with a reading of 58 kilometres per hour. Given the flat, graded driving surface depicted in the advertisement, such a speed would be considered safe and within the law had the driving taken place in an on-road environment. Each vehicle shown in the advertisement is being driven at an appropriate speed having regard to the condition of the unsealed surface. The vehicles are driving in a controlled fashion in separate loops and the vehicles' set paths do not cross at any point. At all times during the advertisement, the distance between each vehicle is greater than that which is usually encountered during ordinary on-road driving conditions. The advertisement was filmed on private property and under controlled conditions. The advertisement does not depict any driving behaviour that could be considered a breach of any law if the driving instead took place on a road or road-related area.

Compliance with the AANA Code

Your letter also asks Honda to address the advertisement's compliance with all parts of Section 2 of the AANA Code. In particular, your letter notes that Section 2.6 of the AANA Code is of relevance to the complaint.

Section 2.6 provides:

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

For the reasons noted earlier, Honda strongly submits that the advertisement does not in any depict any material contrary to prevailing community standards on health and safety. Other than section 2.6 of the AANA Code, Honda submits that the advertisement does not raise any matters of relevance under the other parts of Section 2 of the AANA Code.

Summary

While Honda acknowledges the complainant's concerns, we firmly believe that the advertisement does not contravene the requirements set out in either the AANA Code or the FCAI Code.

Honda firmly believes that the advertisement in no way depicts, encourages or condones irresponsible driving behaviour and it does not depict any material that would be contrary to prevailing community standards on health and safety.

For the reasons outlined above, Honda requests that the complaint be dismissed.

I refer to your letter regarding a further complaint in relation to the television advertisement by Honda Australia Pty Ltd (Honda) featuring the Honda Civic vehicle (the advertisement) and our response submitted to the previous complaint about the advertisement.

Your letter asks us to address any relevant and/or additional issues raised by the further complaint that were not addressed in our response to the previous complaint. Similar to the earlier complaint, the further complaint raises issues under both Section 2(a) of the FCAI Code of Practice for Motor Vehicle Advertising (FCAI Code) and Section 2.6 of the AANA Advertiser Code of Ethics (AANA Code).

1. The further complaint

The further complaint focuses on what the complainant alleges is the depiction of dangerous driving behaviour in the advertisement. The complainant states that the advertisement “encourages hoon driving amongst young people and dangerous driving around a young child on a bike”.

2. Honda’s response to the complaint

As noted in our previous response, Honda takes great care when developing advertisements to ensure full compliance with the FCAI Code and AANA Code. Honda strongly believes the advertisement does not in any way portray driving practices or other matters that could constitute a contravention of the FCAI Code or the AANA Code.

The further complaint raises concerns in relation to the depiction of alleged “dangerous driving around a young child on a bike”. The advertisement shows the young boy in two scenes: first, he is depicted in the opening six seconds riding on a billy cart and he is again visible, albeit from a significant distance, in the aerial shot shown at the 23 to 26 second mark of the advertisement.

Compliance with the FCAI Code

We refer to comments made in our previous response in relation to the alleged depiction of ‘hoon driving’ and reiterate that Honda strongly maintains that the advertisement does not depict or portray ‘hoon driving’ and fully complies with section 2(a) of the FCAI Code as well as the intent of the FCAI Code more generally.

Compliance with the AANA Code

As noted in our previous correspondence, Honda strongly submits that the advertisement does not in any depict any material contrary to prevailing community standards on health and safety. The young boy is not depicted as being in any danger in the advertisement. He is not shown playing on a road or riding his billy cart in the path of the vehicles. Although the circular field featured in the advertisement is an invented off-road environment, the boy is clearly depicted on a different and separately demarked surface to the surface on which the vehicles are being driven.

In the opening scene, when the 1990s era Honda Civic and the boy are shown in the same shot at the 6 second mark, the vehicle is shown at a significant distance from the boy. In the aerial scene, the boy is shown approximately five car widths away, again very far away from the nearest car. The cars shown are not driving dangerously, and are driving in concentric circles well away from the boy so that the boy is really just observing the cars going around and around, rather than being at any risk of the cars coming near him. Honda strongly submits that advertisement does not in any way depict the boy as being at risk of any danger or in any other way that could be considered contrary to prevailing community standards on health and safety.

As noted in our earlier correspondence, Honda engaged a third party agency to ensure that all aspects of the production of the advertisement were conducted safely and responsibly. This specifically involved ensuring that the boy was supervised by a safety officer at all times, that the speed of the billy cart was fully controlled, and that the vehicles depicted in the

advertisement were driving safely, in a controlled manner, and at appropriate speeds.

3. Summary

While Honda acknowledges the further complainant's concerns, we firmly believe that the advertisement fully complies with the requirements set out in the AANA Code and the FCAI Code.

For the reasons outlined above, Honda requests that the further complaint be dismissed. We look forward to receiving the results of the Board's determination in due course.

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 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 Board 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 Board determined that the Honda 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 complainants' concerns that the advertisement features driving practices that encourage hoon driving.

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 the examples given in the FCAI Code include: 'Vehicles travelling at excessive speed; sudden, extreme and unnecessary changes in direction and speed of a motor vehicle...or the apparent and deliberate loss of control of a moving motor vehicle.'

The Board noted that this television advertisement depicts a young boy at various stages of his life and in the cars he had/has at these stages. He starts in a billy cart, then a Honda Civic and eventually the final Honda. The vehicles travel in opposite directions around each other in a circular motion. The surface is unsealed.

The Board noted that the advertiser's response that the advertisement was filmed under controlled conditions, the vehicles were not driven at speed and the boy was supervised by a safety officer at all times.

The Board noted that the advertisement is intended to be metaphorical and is dream like in tone as the boy visualises the cars he wants to own and then is seen growing up and driving these vehicles. The Board noted that the expression of the driver in the latest Honda is relaxed and the addition of the music gives an overall feel of calm and there is no aggressive driving or erratic changes in direction.

In the Board's view the location and set up of the advertisement was something that would not be copied by viewers and there was a high level of control demonstrated throughout the advertisement. The Board considered that overall the advertisement does not portray any driving which is unsafe, or that would breach any Commonwealth law or the law of any State or Territory.

The Board determined that the advertisement did not breach Clause 2(a) of the FCAI Code.

The Board then 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 the vehicles are shown being driven near a child in his billycart. The Board considered the safety concerns regarding the proximity of the cars to the child. The Board noted the advertiser's response that they "engaged a third party agency to ensure that all aspects of the production of the advertisement were conducted safely and responsibly, ensuring the boy was supervised by a safety officer at all times."

The Board considered that that overall the driving was controlled and there was no suggestion that the child was at risk and the advertisement did not depict material contrary to Prevailing Community Standards on health and safety and did not breach the Code.

The Board noted that the advertisement depicts vehicles being driven in an outdoor environment and in a manner designed to show off the vehicle's progression over time and does not encourage unsafe driving.

Finding that the advertisement did not breach the FCAI Code or the Code of Ethics on any grounds, the Board dismissed the complaints.

