



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0348-21
2. Advertiser :	Honda Australia Motorcycle & Power Equipment
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	8-Dec-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

There is a 15 second and a 30 second version of this television advertisement which shows adults and children riding motorbikes on dirt tracks.

THE COMPLAINT

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

This is totally unacceptable since we have already numerous cases in our area where young people on unregistered motorbikes make bush tracks, cycleways and roads unsafe. This kind of behaviour should not be encouraged by a major company. Safety of the public and safety of the riders are at risk and should not be sacrificed to the gain of profit for a company. These ads have no place on public TV.

THE ADVERTISER'S RESPONSE

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

The complaint says, "the ad displays young people on clearly unregistered motor trail bikes hooning around a bush track". This characterisation is inaccurate and totally rejected by Honda.



The riders are riding in an exemplary, safe, considerate and environmentally responsible manner.

The riders selected for filming are age appropriate to the motorcycles they are riding, as it can be seen by how their riding position and motorcycles are ergonomically fitted to their size. Also, as it can be seen at 0:07 and 0:26 the portrayed riding is done under adult guidance and supervision.

The motorcycles are indeed unregistered, as they are designed for off-road use. As they are being ridden on private property, there is no requirement for registration, however none of these models are ADR compliant and all are unregistrable.

There is no "hooning" being shown. The motorcycles are being ridden in an exemplary manner, at slow to moderate speeds and in a safe and appropriate manner.

In reference to the FCAI code, under General Provisions.

1. What assurances can the advertiser provide that any driving depicted in the advertisement would conform to relevant road safety regulations, were it to occur on road or road-related area?

The ad was filmed in its entirety on private property including at motorcycle ride parks designed precisely for the activities being depicted. It was not filmed on roads or road-related areas.

The riding being modeled is clearly that of off-road motorcycles being ridden off-road in a recreational motorcycle trail riding setting and in an exemplary manner. There is no suggestion that these models are appropriate for highway (road or road related area) use or that the riding techniques or rider demographics are suitable for on-road riding. Again, it should be noted that these motorcycles are not ADR-compliant and therefore non-registerable for road use.

2. Can the advertiser confirm that any vehicles portrayed in the advertisement were driven within legal speed limits at all times?

As the dirt trails are on private property, there are no legal speed limits applied to them. Regardless, all riding was done with safety as a priority, including safe speeds and full Personal Protective Equipment (PPE). All speeds depicted are well within any advisory speed limits within the designated riding areas, but more importantly within speed ranges safe and appropriate for the use being depicted.

3. Was it necessary for the advertiser to obtain any special permission/permits to undertake filming of any driving sequences depicted in the advertisement?

No special permission or permits were necessary, as the whole advertisement was filmed on private property.

4. Has the advertisement been made available on the internet?

*Yes. It can be seen on Honda Motorcycles Australia YouTube page.
<https://www.youtube.com/watch?v=zDCNQIa2NzY>*



In reference to the FCAI code, under Use of Motor Sport in Advertising.

For the entirety of the advertisement, motorcycle riding is appropriately depicted as a recreational activity, not in a “competition” or “sport” context. The speeds depicted are slow to moderate and the skill level depicted is novice to moderate for the least skilled of the users being shown.

In reference to the FCAI code, under Depiction of Off-Road Vehicles.

1. Do any/all vehicles portrayed being driven in an off-road setting in the advertisement conform to the requirements of the definition an off-road vehicle as provided in the Australian Design Rules (MC category)? If so, please outline the key criteria which are met?

No. Two wheeled motorcycles cannot comply with ADR 4.3.3 (MC) class. It should be noted that the ‘Off-Road Vehicle” or “MC” class is a class specifically for ADR compliant passenger vehicles, not motorcycles.

This can be evidenced by the referring to:

“ADR 4.3.3 OFF-ROAD PASSENGER VEHICLE (MC)

A passenger vehicle having up to 9 seating positions, including that of the driver and being designed with special features for off-road operation. A vehicle with special features for off-road operation is a vehicle that:

(a) Unless otherwise ‘Approved’ has 4 wheel drive; and.....”

Clearly, by definition, two wheeled motorcycles can’t have four-wheel drive and would not be part of the ADR 4.3.3 class even if they were otherwise designed to be ADR compliant.

All models depicted in the advertisement are non-ADR compliant and thus not road registrable.

We can however confirm that all models are fit for purpose, with tyres, suspension and other components specifically designed and built for off-road use and for age-appropriate riders.

2. 2. What is the maximum number of seating positions in the vehicle/s?

All models shown (CRF50F, CRF110F, CRF125F) have a maximum seating capacity of one; the rider.

3. 3. Does the vehicle/s have four-wheel drive/all-wheel drive?

No, none of the models shown (CRF50F, CRF110F, CRF125F) have either four-wheel-drive or all-wheel-drive.



In reference to the AANA Code of Ethics.

2.1 Advertising shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual orientation, religion, disability, mental illness or political belief.

There is no discrimination being portrayed in the ad in any way.

2.2 Advertising shall not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people.

There is no sexual appeal being portrayed in the ad in any way. CAD rating for the ad is G.

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

There is no violence being portrayed in the ad in any way. CAD rating for the ad is G.

2.4 Advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

There is no sex, sexuality or nudity being portrayed in the ad in any way. CAD rating for the ad is G.

2.5 Advertising shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

There is no strong or obscene language being used in the ad in any way. CAD rating for the ad is G.

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

The ad shows motorcycles being ridden in an exemplary manner and for recreational purposes. All riding shown is performed in a safe manner, with adult guidance and supervision. All riders are wearing appropriate safety gear, including helmet, gloves, and boots.

2.7 Advertising shall be clearly distinguishable as such.

The ad is clearly identifiable as such, as it clearly shows a retail offer both on screen and in the voiceover script.



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).

The Panel noted the complainant's concern that the advertisement depicts unsafe driving.

The Panel viewed the advertisement and noted the advertiser's response.

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 noted that this was a promotion for Honda dirt bikes which are a type of motorcycle and this does meet the definition of Motor Vehicle under 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 then analysed specific sections of the FCAI Code and their application to the advertisement.

Clause 2(a) - 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 advertiser's response that the advertisement was filmed on private property and the advertised vehicles were not ones which were designed to be registered and used on public roads.

The Panel noted that it is against the laws in most states and territories for dirt bikes to be driven on public property, however considered that there is no indication that these bikes are being ridden on public land. The Panel considered that it was



reasonable for an advertiser to depict a vehicle designed for use on private property as being used on private property, and doing so would not breach the law. The Panel noted that the bikes are being ridden at low speeds, that safety gear is being worn and that the children are under adult supervision.

Overall, the Panel considered that the driving in the advertisement was not unsafe, reckless or menacing driving that would breach the law.

Clause 2(a) conclusion

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

Conclusion

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