



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0367-20
2. Advertiser :	Toyota Motor Corporation Australia
3. Product :	Automotive
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	16-Dec-2020
6. DETERMINATION :	Upheld - Modified or Discontinued

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(a) Unsafe driving
FCAI Motor Vehicle Advertising Code\2(b) Breaking the speed limit

DESCRIPTION OF ADVERTISEMENT

This television advertisement shows scene of three siblings being late to their parents anniversary and their attempts to get there.

One is driving from the city, one from the beach and one from the country. The city sibling is crossing a bridge to leave the city, the beach sibling drives over a dirt road through trees and the country sibling leaves a shed and drives over dusty gravel, and along both grassy and dusty country access roads.

As they drive, they talk on their hands-free devices, thinking each other has forgotten about the important event. Two of the siblings arrive and are greeted by their parents, who inform them that the third sibling has already arrived and brought a cake with him.

THE COMPLAINT

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



The commercial promotes speeding and may influence people to speed which is very dangerous

THE ADVERTISER'S RESPONSE

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

Toyota's intention is to ensure that these Advertisements are created in accordance with the FCAI Code and the AANA Code. It is not Toyota's intention in this Advertisement or in any other advertisements to portray driving that could be characterised as unsafe or in contravention of the FCAI Code or AANA Code, or any road safety rules and regulations.

Toyota's intention is not to promote the speed capacity of the Toyota Yaris. Toyota's intention is to show the Yaris's versatility across a range of Australian road types, from the country and beach to the city. The advertisement features three Yaris vehicles: the FMC, GR and Cross, the all-wheel drive vehicle that can be driven on more challenging surfaces than standard bitumen surface. Country roads are indicated by dust and fences, city streets by the bridge, and the beach track by trees and dirt.

The Advertisement shows Toyota vehicles being driven in different environments in compliance with applicable road rules and regulations. Toyota confirms that the vehicles were being driven within the legal speed limit and were closely monitored at all times during filming. Toyota confirms that it obtained council approval and permits as necessary for filming on each shoot. Also, the drivers of the vehicles are seen driving in an attentive manner and taking necessary safety precautions such as wearing a seatbelt and looking ahead with both hands on the wheel.

Under the FCAI Code, Advertisers can portray the performance and abilities of their vehicles in "off road operation". The depiction of the Yaris driving on city streets and off-road on grass, gravel, and dirt roads was intended to show the vehicle's on- and off-road versatility. The off-road driving segments were filmed under controlled conditions on access roads with property owners' permission, within appropriate speed limits and in compliance with relevant road rules and regulations. Furthermore, the off-road driving did not cause deliberate or significant environmental damage.

Toyota takes the opinion of the complainant very seriously. However, it is our belief that the Advertisement does not contravene the FCAI Code or the applicable laws and regulations that govern community roads and driving standards. Toyota maintains that the advertisement does not portray unsafe or dangerous driving under clause 2 of the FCAI Code, and likewise, depicts off-road driving in a controlled manner under the appropriate safety requirements in accordance with section 4 of the FCAI Code.

Toyota Response to Complaint under AANA Code



It is understood that the Board will review the advertisement and ensure that it complies with the entirety of Section 2 of the AANA Code. However, the complaint seems to relate more closely to Section 2.6 of the AANA Code, concerning Health and Safety. Toyota maintains that this Advertisement does not breach any section of the AANA Code of Ethics, specifically Section 2.6.

Given all this, Toyota respectfully requests that the Complaint be dismissed. In the alternative, should the complaint stand, Toyota would be prepared to edit the advertisement, by inserting an alternative shot of 'Jack' exiting the garage at a lower speed and by slowing down or modifying his driving down the laneway.

If you require any further information or assistance, please do not hesitate to contact the writer.

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 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 a scene in the advertisement showing a white vehicle leaving a shed and appearing to lose traction in the back tyres.



The Panel noted Provision 297 of the Australian Road Rules which states:

*“Driver to have proper control of a vehicle etc
(1) A driver must not drive a vehicle unless the driver has proper control of the vehicle.
Offence provision.”*

The Panel considered that the action of losing traction in the rear of the vehicle would be considered to be a loss of control of the vehicle.

The Panel considered that the advertisement did depict the vehicle engaging in unsafe which would be likely to breach relevant law were it to occur on a road or road related area.

Clause 2(a) conclusion

The Panel considered that the advertisement did breach Clause 2(a) of the FCAI Code.

Clause 2(b) - Advertisements for motor vehicles do not portray: people driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast.

The Panel noted the complainant’s concern that the advertisement promotes speeding and may influence people to speed.

The Panel noted that it is unclear what the speed limit was on the roads shown in the advertisement. The Panel considered that the speed of the drivers in the advertisement is unclear and that while there may be an impression of speed due to the dust stirred up in some scenes, the vehicles do not appear to be driving at excessive speeds.

The Panel noted that the feeling of the advertisement is one of speed, due to the theme of being late to an event, however considered that there is no indication that any vehicle was exceeding the speed limit and that while it is unclear what speed was reached, it is unlikely to have been a speed which breached the law.

The Panel considered that the theme of rushing to a location or event is contrary to road safety campaigns, however considered that the drivers in the advertisement do not appear to drive in a manner in excess of speed limits.

Clause 2(b) conclusion

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

Conclusion



Finding that the advertisement did breach Cause 2(a) of the FCAI Code, the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

Toyota confirms that it has taken steps towards modifying the Advertisement, and the original Advertisement was discontinued.