



Case Report

1	Case Number	0408/14
2	Advertiser	Isuzu
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	08/10/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(c) Driving practice that would breach the law
FCAI Motor Vehicles 2(e) Environmental damage

DESCRIPTION OF THE ADVERTISEMENT

To highlight the features and benefits of the vehicle, the Isuzu D-MAX 30-second TVC depicts an Isuzu D-MAX 4x4 utility vehicle driving in a variety of different locations and scenarios; including a construction worksite, quarry, river bed, creek, sand track and sealed rural road. The Advertisement also includes pricing and an added-value offer as part of a retail campaign.

THE COMPLAINT

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

The vehicle was driven in sensitive environments such as along beaches and through stream beds in an inappropriate way, encouraging "hoon" behaviour such as spraying sand and fast, careless driving in water.

THE ADVERTISER'S RESPONSE

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

ADVERTISER'S RESPONSE

The Advertisement depicts the four-wheel drive variant of the Isuzu D-MAX being driven in

various on and off-road settings. The primary purpose of the Advertisement is to establish the versatility and durability of the vehicle. This is illustrated several ways and all care was taken to preserve the environment during the filming of the Advertisement.

Isuzu UTE Australia acknowledges that the Advertisement must comply with the Federal Chamber of Automotive Industries Code of Practice Relating to Advertising for Motor Vehicles (FCAI Code). The Isuzu D-MAX in the Advertisement is four-wheel drive with seating for five adults. Section 2(e) of the FCAI code states that “Advertisers should ensure that advertisements for motor vehicles do not portray any of the following...deliberate and significant environmental damage, particularly in advertising for off-road vehicles.” In order to demonstrate the capabilities of the vehicle, Isuzu UTE Australia showed the vehicle in on-road and off-road scenarios. Isuzu UTE Australia takes its environmental responsibilities seriously, and as such it has demonstrated the inherent capabilities of the vehicle in a responsible manner. At all times the vehicle was driven in a safe manner at safe speeds within the legally prescribed speed limits of the various locations. The driver was in complete control at all times, and the environment is not being degraded or altered by the vehicle in these sequences.

The first scenario questioned by the complainant depicts an Isuzu D-MAX turning on a previously-driven soft sand track commonly used by other outdoor enthusiasts. This demonstrates the vehicle can be safely controlled on loose and soft surfaces. As a result of the traction provided by the vehicle, sand is flicked up. At no time was the vehicle out of control, speeding or being driven in a “hoon” manner – nor does the scene depict careless driving.

The vehicle is also shown wading through a rocky creek. The dynamics of a vehicle crossing such terrain means that although ‘wake’ is created during the crossing, the rocky riverbase was barely disturbed (if at all) by driving the vehicle through it. It is Isuzu UTE Australia’s view that the natural erosion caused by the flow of the water would cause far greater damage than the vehicle crossing the creek, as shown in the Advertisement.

Section 4 of the FCAI Code provides that “an advertisement may legitimately depict the capabilities and performance of an off-road vehicle travelling over loose or unsealed surfaces, or uneven terrain, not forming part of a road or road related area. Such advertisements should not portray unsafe driving and vehicles must not travel at a speed which would contravene the laws of the State or Territory in which the advertisement is published or broadcast, were such driving to occur on a road or road related area.”

In Isuzu UTE Australia’s view, the Advertisement does not portray unsafe driving, and does not show the vehicle travelling at an illegal or unsafe speed. The Advertisement’s purpose is, in part, to emphasise the ability of the vehicle to handle both on- and off-road conditions with ease. The Advertisement therefore contains legitimate depictions of the vehicle’s abilities in off-road conditions consistent with section 4 of the FCAI Code.

The advertisement, when viewed objectively by a reasonable member of the audience, would not be taken to depict unsafe driving, driving beyond the speed limit, or portray deliberate and significant environmental damage. As supported by the CAD rating, the view of Isuzu UTE Australia is that the Advertisement is compliant with the FCAI Code, and AANA Codes in all respects.

Isuzu UTE Australia submits that the Complaint should be dismissed.

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.

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 material draws the attention of the public or a segment of it to a product being an Isuzu D-Max in a manner calculated to promote that product. The Board determined that the Isuzu D-Max 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 an image of a Isuzu D-Max driving in a variety of different environmentally sensitive locations and encouraged hoon behaviour. The Board then analysed specific sections of the FCAI Code and their application to the advertisement.

The Board considered clause 2(c) of the FCAI Code which requires that advertisements for motor vehicles should not depict '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 upon reviewing the advertisement that the vehicle is a utility that has off road capabilities. The advertisement shows the ute being driven in different locations and on different terrains in order to show the vehicle's capabilities. The Board noted that throughout the advertisement, particularly when driving off road, the vehicle is shown being driven slowly and in a controlled manner and considered that the advertisement did not depict or encourage unsafe or reckless driving.

The Board determined that the advertisement did not breach Clause 2 (c) of the FCAI Code. The Board then considered Clause 2(e) of the FCAI Code which requires that advertisements for motor vehicles do not portray "deliberate and significant environmental damage, particularly in advertising for off-road vehicles."

The Board noted the Isuzu D-Max is shown driving over sand and through streams and considered that driving vehicles with off road capabilities over these terrains is not uncommon and does not necessarily contribute to environmental damage. The Board noted that some people may consider that environmental damage can be caused by any incursions by people in vehicles into wild/environmental areas however the Board considered that the vehicle is shown to be driven in a cautious manner which is not intentionally damaging to the environment and determined that the advertisement did not breach Clause 2(e) of the FCAI

Code.

The Board noted the scenes where the vehicle is driven on sand and through a shallow creek and considered that the manner in which the vehicle is driven, overall did not depict, condone or encourage reckless driving.

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