



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0412/14</b>
<b>2</b>	<b>Advertiser</b>	<b>Honda Australia Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Vehicle</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>08/10/2014</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

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

## DESCRIPTION OF THE ADVERTISEMENT

This TV advertisement features various vehicles being used in different situations before we see a Honda CR-V being used in the same situations as a comparison to highlight some of the features of the Honda. One of the features highlighted is the reversing camera which is used to reverse parallel park between two vehicles and to reverse down a driveway. The background music is the song, "Anything you can do, I can do better".

## THE COMPLAINT

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

*The driver only uses the reversing camera when reversing, which is unsafe and in car manuals it advises against this and encourages unsafe driving.*

## THE ADVERTISER'S RESPONSE

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

*In order to attempt to address the complaint made, we have reproduced in full the "reason for concern" provided below:*

*“The driver only uses the reversing camera when reversing, which is unsafe and in car manuals it advises against this and encourages unsafe driving.”*

*Our specific response is as follows;*

*1. Vehicle Owner’s Manuals, including Honda’s for the CR-V, generally implore drivers to exercise caution when reversing, not to solely rely on reversing cameras. Drivers are cautioned to assess their surroundings prior to moving their vehicle – either directly or by the use of the vehicle features, eg. mirrors, reversing camera – and are encouraged to continue to assess their surroundings – again, either directly or by using the vehicle features – to manoeuvre the vehicle safely.*

*2. The TVC was designed to showcase the many features of the CR-V, one of which being the reverse camera functionality. The brief scene in which the reverse camera is used (which is only shown for a small portion of the ‘reversing process’) is done so in a manner entirely consistent with the recommendations above.*

*3. In order to fully address the concerns of the complainant, the entire reversing process would need to be filmed and displayed within the TVC – something which is not practical nor feasible for a TVC.*

*4. There is nothing in the reversing scene (or the rest of the TVC) that encourages unsafe driving. While the complainant appears to state that Owner’s Manuals encourage unsafe driving, Honda has assumed this is meant to read the opposite or perhaps as an accusation that the TVC itself encourages unsafe driving. Either way, Honda rejects these claims outright as per the above.*

*It should also be raised for completeness that such cameras provide great assistance in preventing reversing collisions (especially in SUVs), and the impact of this has been profound since the widespread introduction of reversing cameras by motor vehicle manufacturers in the last 10 years.*

#### *General Responses*

*Notwithstanding the above, Honda is aware of its obligations to broadly respond to all potential issues with the TVC under the FCAI Code and AANA Code of Ethics and to this end Honda advises that the TVC was reviewed and approved before launch by its specialist legal advisors with close consideration paid to the applicable codes. It is Honda’s continuing view (as supported by the expert legal advice received before launch and now re-confirmed) that the TVC is in no way in breach of the FCAI or AANA codes. Specifically, under the AANA Code, sections 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 are respected and not infringed.*

*Honda does not propose to fully dissect every scene of the TVC against the codes as to do so would be unduly onerous, especially given the precise nature of the complaint made in this instance.*

*Honda will say in defence of the TVC however that it can assure the ASB that at all times during filming all driving depicted conformed to the road rules, all vehicles were driven within relevant speed and other limits, and any and all permissions that were required to film were indeed obtained (including on private property).*

*The 30-sec advertisement was broadcast nationwide.*

*On the basis of the above, while Honda Australia welcomes and supports the right of individuals to raise concerns about advertising through the ASB, Honda Australia believes that the TVC is fully compliant with all applicable codes, including the FCAI and AANA codes.*

*Honda looks forward to the ASB confirming that it shares Honda's view of the matter in dismissing this complaint.*

## **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 a Honda CR-V in a manner calculated to promote that product. The Board determined that the Honda CR-V 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 Honda being driven in everyday situation including performing a reverse park to fit between two other vehicles.

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 the complainant's concern that the driver only uses the reversing camera when reversing, which is unsafe.

The Board noted that the advertisement featured various scenes of the Honda being driven and reversed and loaded with goods and compared these to another vehicle. The Board noted the theme music being played is "anything you can do, I can do better" and acknowledged the intention is to show that the Honda has more features and inclusions that make it better than similar style vehicles. The Board noted that one of the inclusions of the vehicle is the reversing camera and that this is being used by a woman as she parks between two already

stationary vehicles.

The Board noted at the particular point when the vehicle is being reversed, the driver does utilise the reversing camera, but there is no suggestion that the driver relied only on the camera and the use of the reversing camera. The Board considered that most members of the community would understand that the addition of the reversing camera function within the vehicle is there as a driver aid when reversing and not the sole mechanism to be used.

The Board noted the scene where a reversing motor vehicle bumps into a stationary vehicle. The Board considered that this depiction is more related to demonstrating how not to park and the advantages of the features on the advertised vehicle, than depicting driving practices that do not show due care for other vehicles.

The Board considered that the depiction of safety features of the motor vehicle do not represent the promotion of unsafe driving practices.

The Board considered that throughout the advertisement, the vehicle is being driven slowly and in a controlled manner and considered that the advertisement did not depict unsafe driving and did not suggest that drivers should not use other actions such as assessing their surroundings by looking and using the vehicles mirrors etc.

The Board determined that the advertisement did not breach Clause 2 (c) of the FCAI Code. Finding that the advertisement did not breach the FCAI Code, the Board dismissed the complaints.