



Case Report

1	Case Number	0459/12
2	Advertiser	Toyota Motor Corp Aust Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV
5	Date of Determination	12/12/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving
FCAI Motor Vehicles 2(c) Driving practice that would breach the law
2.6 - Health and Safety Unsafe behaviour
2.6 - Health and Safety within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

A driver is seen to travel on what appears as a single journey, dropping off an extremely high number of passengers at various locations including 13 'Best Mates' outside a mural on a street corner. The end frame of the ad is the Corolla parked on a rooftop, the driver in the car surrounded by all the 'Mates' who featured in his "lifetime of goodtimes" with the vehicle.

THE COMPLAINT

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

There are several instances in the ad whereby people alight from the vehicle and stand on the footpath. The licensed carrying capacity of the vehicle is five people including the driver. In each instance the car drives away there should be no more than four people alighting from the car. There is more than this on the footpath thus giving the impression that the vehicle can carry more people. This not being the case it can also give the impression that by having more people present it is deemed appropriate to carry more than licensed thus causing a safety hazard to occupants.

The car is a 5 seater and under Victorian law, there can only be as many passengers as there are seatbelts, I find it appalling that after the recent accidents that have happened with too many people in the car. That it would be allowed to air.

I feel it is irresponsible to advertise that this small (5 seater) car is able to transport 13 people plus driver. Overcrowding a car and not wearing a seat-belt in a car are both illegal and dangerous. I feel the company is not taking such an issue seriously. I understand the advertisers are making a statement of how roomy the new Corolla seems, however I also see the issue of overcrowding a car may be conveyed as acceptable, and feel this may lead to some trying to fit more passengers than a car is designed.

The ad shows the car stopping and letting out people a number of times. The driver remains in the car. Each time the car lets out people, it lets out well in excess of the legal carrying capacity of the vehicle. Considering the number of accidents and deaths resulting from overcrowded vehicles involved in an accident, and young people often being the victims, it is highly irresponsible of CAD to approve this commercial. It needs to be amended to show no more than four people exiting the vehicle at any one time, if the driver stays in the car.

THE ADVERTISER'S RESPONSE

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

We refer to the letter received on 20 November 2012 in relation to the above complaint. We have considered the complaint and the advertisement in question in light of the provisions of the AANA Code of Ethics ("AANA Code") and the Voluntary Code of Practice of Motor Vehicle Advertising set by the Federal Chamber of Automotive Industries ("FCAI Code"). We note that the nature of the complaint relates generally to the AANA Code and FCAI Code and specifically to the concern that the advertisement in question contains imagery that is alleged to condone a reckless activity involving the transportation of passengers in excess of the legal limit.

We have carefully considered the AANA Code and FCAI Code, and have assessed the provisions against the content of this advertisement. We submit that the advertisement does not breach the AANA Code or the FCAI Code on any of the grounds set out in the same. Looking at the FCAI Code, we note that the FCAI themselves have provided the following guideline with regards to the FCAI Code's interpretation: "FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles. However, such devices should not be used in any way to contradict, circumvent or undermine the provisions of the Code."

We note that the advertisement clearly depicts in a fanciful way a scenario where a driver, in what is deliberately staged to appear as a single journey, drops an extremely high number of passengers off at various locations. In each case, the number of passengers being dropped off is deliberately exaggerated and at least double the physical capacity of the vehicle. This is achieved through the use of visual effects, which is very apparent as there is no way the number of people depicted in the advertisement could physically fit in the vehicle at one time

or alight as swiftly and easily as they do. Further, in each scene there are never more than four people physically exiting the vehicle.

The visual effect used in the advertisement was achieved by filming four passengers exiting the car at each scene. Then filming a group of passengers from a crouching position behind the car. These two shots were then composited together to depict of the type of people the driver would transport during the lifetime of the vehicle.

We note that at no time does the advertisement imply that the number of people being dropped off at a particular location can all fit inside the vehicle. Rather they appear or morph from those actually shown exiting the vehicle or simply appear outside the vehicle to depict in an exaggerated and fanciful way the type of people the driver would transport during the lifetime of the vehicle. We note that there are no shots of the inside of the vehicle shown at any time, and indeed the only person who is actually visible inside the vehicle at any one time is the driver.

We further note that the driver is driving very carefully, in full control of the vehicle, and observing the road and obeying the road rules at all times during the advertisement. At no stage does the driver appear to be struggling with a vehicle exceeding its capacity, or impacted by an over-abundance of passengers. Clearly, this is because for the actual drive, taking place in real time, the vehicle never exceeds its capacity.

Having regard to the complainant's specific concern that the advertisement could encourage young drivers to attempt to fit excess numbers of people into their vehicles, we note that there is nothing in the advertisement which endorses such an activity. The message is exaggerated, fanciful and is clearly centred around the lifetime of the vehicle over a countless number of trips. The advertisement shows that a vehicle can be used in a social context to transport people around, and that this leads to the continual fostering of lasting friendships, with many social trips in the vehicle over a long period of time. The exaggerated number of people appearing from the vehicle is clearly an example of the types of people the driver character may transport during his "lifetime of goodtimes" with the vehicle, and does not at any point imply that all of those people could, would or should fit into the vehicle at any one time. Accordingly, in our view, the material depicted in the advertisement is a legitimate use of fantasy and exaggeration in a creative way. There is no scene in the advertisement that depicts any unsafe driving or driving practices that would be in breach of the Australian road rules, and accordingly the advertisement does not seek to undermine or circumvent any aspect of the FCAI Code. Accordingly, the advertisement is not in breach of any provision of the FCAI Code.

Looking at the AANA Code, Provision 2.6 provides that advertisements "shall not depict material contrary to Prevailing Community Standards on health and safety." In this regard we note that the advertisement depicts all characters exiting the vehicle carefully whilst the vehicle itself departs with care.

Accordingly, we submit that the advertisement does not breach Provision 2.6, or any other provision of the AANA Code.

In conclusion, we submit that the advertisement is completely compliant with the AANA Code and the FCAI Code. Great care was taken by Toyota to ensure that these Codes were respected and considered both in pre-production and during production of this advertisement. Accordingly, we submit that this 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) and the Advertiser Code of Ethics (the 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 available in Australia or in a substantial section of Australia for payment or valuable consideration.

The Board determined that the material draws the attention of the public or a segment of it to a product being a Toyota in a manner calculated to promote that product. The Board considered that in line with previous decisions around the scope of the FCAI Code the marketing communication is an advertisement as defined by the FCAI Code. The Board also 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 Toyota is 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 depicts driving actions which are both illegal and dangerous, as well as traffic practices that could be considered risky or dangerous.

The Board then analysed specific sections of the FCAI Code and the AANA Code of Ethics and their application to the advertisement.

The Board noted that the advertisement shows a Toyota Corolla being driven along suburban streets by a young man and as he pulls over to the side, numerous people are seen exiting the car. The text that appears above these scenes describes stages in the young man's life. For example "a lifetime of best mates."

The Board considered clause 2(c) of the FCAI Code. Clause 2(c) requires that: Advertisements for motor vehicles do not portray ...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 that although the advertisement shows the vehicle pulling over and letting large groups of people out of the car, the car is never actually seen with excessive numbers of people inside it.

The Board noted that the advertisement clearly depicts in a fanciful way a scenario that is

intended to appear exaggerated and not realistic.

The Board noted that the vehicle is being driven in a controlled manner throughout the advertisement and that the advertisement is not condoning the practice of overcrowding a vehicle beyond what it is licensed to carry and has seatbelts for.

On the above basis, the Board determined that the advertisement does not depict an action which would breach a Commonwealth law and does breach clause 2(c) of the FCAI Code.

Finding that the advertisement did not breach the FCAI Code, and the Code of Ethics the Board dismissed the complaint.