



Case Report

1	Case Number	0468/11
2	Advertiser	Nissan Motor Co (Aust) Pty Ltd
3	Product	Vehicles
4	Type of Advertisement / media	TV
5	Date of Determination	07/12/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The subject of the complaint is Nissan's 45 second in-program segment which features footage of 2010 Junior MasterChef contestant Siena Johnston and her family promoting the Nissan X-TRAIL vehicle. This advertisement features Miss Johnston preparing a lamb roast in a camp oven with her family. While the lamb is roasting the camp fire, Miss Johnston's father takes her and her brothers on a drive in the Nissan X-TRAIL vehicle to a nearby mountain before returning to Miss Johnston's mother at the campsite for dinner.

THE COMPLAINT

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

The ad is extremely irresponsible in that it portrays a family making a fire in the wilderness and then leaving the fire unattended while they go for a drive. With the huge bushfire risk in Australia and the number of people who have been killed this ad encourages a behaviour that many agencies have been working very hard to change.

THE ADVERTISER'S RESPONSE

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

We refer to your letter dated 24 November 2011. This letter details a complaint, reference 0468/11 (the complaint) received by you in relation to a Nissan Motor Co. (Australia) Pty. Ltd. (Nissan) 45 second in-program segment in Channel 10's Junior MasterChef final advertising Nissan's X-TRAIL vehicle (the advertisement).

In your letter you state that the complaint raises issues under Section 2 of the AANA Code of Ethics (AANA Code) and you ask that any response address any issues that might be regarded as falling -broadly within section 2 of the AANA Code.

1. The complaint

The subject of the complaint is Nissan's 45 second in-program segment which features footage of 2010 Junior MasterChef contestant Siena Johnston and her family promoting the Nissan X-TRAIL vehicle. This advertisement features Miss Johnston preparing a lamb roast in a camp oven with her family. While the lamb is roasting the camp fire, Miss Johnston's father takes her and her brothers on a drive in the Nissan X-TRAIL vehicle to a nearby mountain before returning to Miss Johnston's mother at the campsite for dinner. The complainant is concerned that these particular events in the advertisement may contravene occupational health and safety guidelines.

2. Nissan's response to the complaint

Purpose of the Advertisement

The advertisement was produced as part of Nissan X-TRAIL's sponsorship of the 2011 Junior MasterChef series presented on Channel 10. Nissan engaged a previous Junior MasterChef contestant, Siena Johnston and her family, to promote the Nissan X-TRAIL during the series through a number of in-program segments and through competitions held on social media promoting both Miss Johnston's recipes and the Nissan X-TRAIL.

The aim of this particular in-program segment was to link the family-friendly nature of the Nissan X-TRAIL vehicle with the family-oriented Junior MasterChef, using a light hearted approach. The camp fire barbeque and drive up the mountain were references to some of the enjoyable aspects of family camping, and highlight the role the Nissan X-TRAIL can play for an adventurous family. As outlined above, Nissan notes that Mr Johnston offered to take the children for a 'drive up the mountain' while Mrs Johnston stayed behind to monitor the dinner cooking in the camp oven.

Compliance with the AANA Code

The nature of the complaint means that the relevant section of the AANA Code is section 2.6, which states that "advertising or marketing communications shall not depict material contrary to Prevailing Community Standards on health and safety."

We note that, as this is an advertisement for a motor vehicle, section 2.7 of the AANA Code provides that section 2.6 does not apply, and that alternately, the advertisement must comply with the FCAI Code.

To determine whether the advertisement complies with the AANA Code, it must ordinarily be assessed against the relevant provisions of the FCAI Code. In this particular instance, given that the FCAI Code is principally concerned with the nature in which motor vehicles are presented in advertising, we note that there are no provisions under the FCAI Code that would preclude Nissan from producing an advertisement in this form.

However, to demonstrate Nissan's bona fide intentions to resolve this matter as effectively as possible, Nissan will still consider the words of section 2.6 as they appear, namely that advertisements "shall not depict material contrary to Prevailing Community Standards on health and safety".

Community Standards on Health and Safety

Junior MasterChef campaign

Nissan X-TRAIL was a key sponsor of the 2011 Junior MasterChef series. A number of in-program segments and television commercials featuring the Johnston family were developed as part of this sponsorship. This particular in-program segment was the final part in the series. Each of the in-program segments was developed for one-off use. That is, they are not repeating advertisements.

This particular advertisement was filmed in Gingles Road, Humevale on 21st September 2011 in the last two hours before dusk. A CFA officer was present during the filming. The advertisement was filmed before the recent bushfires in Western Australia. Nissan notes that the timing of this in-program segment's broadcast was unfortunate in that respect. Further, Nissan notes that it did not intend to convey any insensitivity to the victims of those bushfires or any other bushfire tragedies in recent years and apologises to all persons who may take offence for any misinterpretation of this in-program segment.

Nissan's response to natural disasters in Australia

Like the complainant, and many major corporations, Nissan has felt great sympathy for the victims of natural disasters such as bushfires, floods and cyclones in Australia. Nissan is well aware of the harsh environment many Australians live in, and takes community health and safety very seriously.

Nissan does not make a point of advertising the goodwill it has provided to the community during times of crisis, but would like to note that following the Black Saturday bushfires of February 2009 Nissan provided a total of sixty-one 4x4 vehicles (appropriate for rural/farm use) to the Department of Human Services to be distributed to people in areas of need. These vehicles were provided at no cost (except for fuel) for a period of 6 months and at the end of that period, the vehicles were offered at reduced cost with preferential finance for those who wished to finance the purchase. Nissan and their parent company made donations of over \$100,000 to the Victorian Bushfire Relief Fund

The advertisement

Nissan acknowledges the complainant's concerns, but does not believe that the advertisement depicts material that is contrary to the prevailing community standards in relation to health and safety.

In Nissan's opinion, the advertisement does not depict or condone any form of dangerous behaviour in relation to the family's set up at the camp site. On close inspection of the advertisement, it is plain that the mother does not join the father and children on the 'drive up the mountain'. Rather, the inference is that she has stayed behind to supervise the campfire and the family's camp site. The parents' decision for the mother to stay behind is a responsible and appropriate one, especially given that the lamb roast is cooking in the camp oven.

For completeness, Nissan notes that the advertisement was filmed under controlled circumstances and in appropriate weather conditions. It was filmed in the presence of a large production crew. At no time was the campfire left unattended, and it was safely extinguished after filming of the advertisement was completed.

Nissan also notes that this particular advertisement was a one-off in-program segment and Nissan does not expect, at this stage, that it will be re-broadcast in the future.

Nissan takes great care when developing television commercials to comply with the AANA Code and FCAI Code and to ensure that the commercials do not encourage any form of unsafe, illegal or reckless activity (including unsafe, illegal or reckless driving). Nissan also takes great care to ensure that the advertisements, in-program segments and other materials produced do not present any vehicle being driven in a manner that undermines the intent of the FCAI Code. In Nissan's opinion, the advertisement fulfils these goals and obligations.

Nissan firmly believes that the advertisement is meant to be interpreted in a light hearted way, and that the advertisement in no way encourages or condones dangerous behaviour in Australian homes or on Australian campsites. We look forward to receiving the results of the Board's determination.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that the advertisement is irresponsible in its portrayal of a fire being left unattended in the wilderness.

The Board reviewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement was in breach of Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Board noted the advertisement features a family camping in the bush and that after lighting a fire to cook a lamb roast the father takes the children for a drive.

The Board noted the advertiser’s response that we only see the father and the children in the car and that the mother has remained behind to “monitor the dinner cooking in the camp oven”. The Board noted that the mother is not featured in the scene where the father asks the children if they want to go for a drive up the mountain.

Some members of the Board expressed concern that it was not made explicitly clear that the mother stayed behind and considered that it was possible to assume that the mother was waiting in the car to drive with them and that the fire was left unattended. A minority of the Board considered that the unclear nature of this depiction amounted to material which is contrary to prevailing community standards on health and safety as it could be interpreted that camp fires are okay to be left unattended.

A majority of the Board however considered that whilst it would have been preferable if the advertiser had made it clear that the mother had remained behind, the fact that the father specifically asks only the children if they want to go for a drive and that the front passenger seat of the Nissan appears to be empty when you see the car driving up the mountain would imply that the mother has stayed behind.

The Board considered that the advertisement does not depict material which is contrary to prevailing community standards on health and safety and did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.