



Case Report

1	Case Number	0490/15
2	Advertiser	Toyota Motor Corp Aust Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	20/01/2016
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.6 - Health and Safety Motor vehicle related
- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement consists of a number of tough scenarios where the different variants of the Vehicles are ably placed to assist and effectively perform the tasks that less powerful or durable vehicles could not handle. This ranges from off road driving, towing a broken down vehicle and plane, transporting livestock and assisting people in difficult situations. The Advertisement has been produced to have the look and feel of a frontier adventure story, using elements of fantasy, humour and exaggeration to underscore the excitement and reliability of such a powerful range of vehicles.

THE COMPLAINT

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

Contravenes Government safety message of "If it's flooded, forget it!". Queensland State Government are currently advertising against driving through flood waters with the "If it's flooded forget campaign". We feel that the Toyota Landcruiser Legends ad depicts unsafe driving practices by depicting the Landcruiser being use as a rescue vehicle in flood waters but not being driven by trained rescue personnel. This is showing that this vehicle is suitable for passing through flood waters.

The advert depicts a Landcruiser entering flood-water promoting the ability of a Landcruiser to undertake that activity. People die ever year from this unsafe activity and it is highly

irresponsible to have a major company promoting unsafe behaviour. This ad is in direct conflict with Government message that are trying to promote safety in flood water by reinforcing that it does not matter which car you drive flood-water is unsafe.

THE ADVERTISER'S RESPONSE

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

In producing the Advertisement, Toyota took significant care to ensure that it accorded with prevailing community standards and expectations as well as all applicable laws, rules and public safety initiatives. As a result, Toyota is satisfied that the Advertisement neither encourages any form of unsafe, illegal or reckless activity nor depicts anything that is contrary to community expectations.

The scene of the Advertisement to which the Complaint relates (at time stamp 0:44 to 0:55 seconds) depicts a rural setting in which a LandCruiser 200 crosses the shallow water to reach the narrator, who is sitting on a fence post by a river that has overflowed its bank. At all times, the water level never rises above the lower portion of the Vehicle's tyres.

Toyota notes that the Advertisement does not portray significant or dangerous flooding, rather the narrator is simply being assisted so as to avoid getting wet. Toyota contends that there is a significant difference between the scenario depicted and one which portrays or encourages dangerous driving in severe flood conditions.

As noted earlier, the Vehicle range has been specifically designed for difficult terrain and conditions. This includes the capacity to drive on unsealed roads and shallow waters, assisted by its higher clearance levels and raised suspension. Whilst the scene in the Advertisement was created using real world footage, the Vehicle is at no time depicted undertaking activities that put the lives of anyone in peril or which it could not actually perform in the real world. Contrary to the contention of the Complaint, Toyota does not believe that the Advertisement in any way promotes reckless driving in flood waters.

Whilst not specifically raised by the Complaint, Toyota notes the wording of clause 4 of the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (the FCAI Code) which states 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.”

The Advertisement does not portray any driving practices which would contravene the laws of any State or Territory and serves to highlight the off-road capabilities of the Vehicles in the manner envisioned by this clause.

Conclusion

Toyota is strongly of the view that the Advertisement does not in any way contradict any public messaging about the safety of driving in flood conditions and does not encourage reckless or dangerous driving. The Vehicle is used in a safe and responsible manner entirely within its capability to drive through low freshwater.

In light of the issues contained in this letter, Toyota does not believe that the Advertisement is in breach of the AANA Code. Accordingly, we request that the Complaint be dismissed.

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 complainants’ concerns that the advertisement depicts a vehicle entering floodwater which is dangerous and contrary to Prevailing Community standards.

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

The Board considered 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 that this television advertisement depicts a Toyota Landcruiser being used in various rural terrains including to tow another vehicle from a shallow creek and to rescue a man trapped on a fence in a flooded field.

The Board noted it had recently dismissed a similar complaint in case 0467/15 where:

“The Board noted that this television advertisement depicts a driver in a Volkswagen pausing as he crosses a river to tell a canoeist all about his vehicle despite the canoeist’s lack of interest.

The Board noted the complainant’s concerns that the Queensland government is raising awareness of the dangers of floods to drivers (<https://www.fire.qld.gov.au/communitysafety/downloadlibrary/pdf/Swiftwater-Web.pdf>) and that this advertisement undermines that message by suggesting the Volkswagen Ute is capable of safely driving in a river.

The Board noted the advertiser’s response that the vehicle is shown crossing a shallow creek and not floodwater and that this action is common for the off-road setting of the advertisement.

The Board acknowledged the important safety message regarding entering floodwaters but considered in this instance the vehicle is clearly shown driving in a shallow creek which does not appear to be flooded or unsafe. The Board noted that the setting of the advertisement is an off-road environment where crossing a shallow creek or river would not be uncommon and considered that as there is a dirt road leading to the water the most likely interpretation of this scene is that the water is intended to be driven through to get to the other side. The Board considered that the advertisement does not depict a situation which is contrary to the

Prevailing Community standards around entering unsafe floodwater.”

In the current advertisement the Board noted the scene where the Landcruiser is used to tow another vehicle from a shallow creek. The Board noted that there are clear tyre tracks on either side of this water and considered that this was suggestive of the water being intended to be driven through. The Board noted that the water level only reaches the middle of the stuck vehicle’s tyres and considered that there was no suggestion that the creek was flooded or dangerous to cross. The Board noted that this scenario would be common in rural areas and considered that the portrayal of a vehicle crossing a shallow creek which forms part of an off-road trail is not a breach of Prevailing Community standards.

The Board noted the scene where the narrator of the advertisement is rescued from a flooded field. The Board noted the advertiser’s response that a river has burst its banks and flooded the field and that the water does not meet the vehicle’s wheel arches. The Board noted that it is not clear in the advertisement where the water in the field has come from but with the image of a river in the background it appears to be flood water . The Board noted the Queensland government is raising awareness of the dangers of floods to drivers (<https://www.fire.qld.gov.au/communitysafety/downloadlibrary/pdf/Swiftwater-Web.pdf>) and considered that there was significant community concern around this issue.

The Board noted that the level of the water does not meet the vehicle’s wheel arches but considered it was not clear whether the water level was rising or not and that the fact the man had been stranded on a fence would suggest that the water levels had risen suddenly and caught him unaware.

The Board considered that this scene in the advertisement, of a vehicle driving through flood water was a depiction which undermines the currently community safety messages around driving through floodwater and determined that the advertisement did breach Section 2.6 of the Code.

Finding that the advertisement did breach Section 2.6 of the Code, the Board upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

I refer to your letter in relation to the Board's decision to uphold the complaint.

Whilst we do not agree with the Board's conclusion that the Advertisement is in breach of the AANA Code, in the interests of compliance and maintaining the integrity of the process, Toyota accepts the Board's decision.

As at the date of this letter, we have instructed our media agency to immediately remove the Advertisement from air across all media. It is our intention that, for the remainder of the period for which the Advertisement was to run, we will replace the Advertisement with an alternative version that does not contain the scene that was the subject of the complaint.

We anticipate that we may wish to modify the final scene so that we can rebroadcast the Advertisement in the future. If we proceed to do so, we will take address the Board's concerns in any amendments that are made.