



Case Report

1	Case Number	0506/14
2	Advertiser	Mitsubishi Motors Aust Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	10/12/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(e) Environmental damage

DESCRIPTION OF THE ADVERTISEMENT

A mother and father enter a school and as the bell rings they collect their three children and get in to a Mitsubishi Outlander. We see the vehicle being driven from the school to a beach before coming to a stop near a seaplane. The voiceover says, "Break out with the Mitsubishi Outlander" and we see pricing details on screen along with the Mitsubishi logo.

THE COMPLAINT

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

The Mitsubishi Outlander 4WD ad goes against community health, safety and educational standards:

The ad appears to flout the importance of education and respect for the environment, set out in UN Conference on Environment and Development (Earth Summit), held in Rio de Janeiro on June 13, 1992, where 178 governments voted to adopt the program;

The 4WD appears to be driving at speed on the beach;

When the 4WD stops there is a seaplane in the frame, implying the family were speeding to meet the seaplane;

The ad implies that Beach driving is acceptable yet it is only permitted on a few Australian beaches;

Most beaches where driving is permitted are nowhere near cities with the exception being Moana SA;

The ad shows the children would be too young to understand any implications of driving w/o

consideration for the environment, or driving on beaches, most of which are regulated and require permits, to say nothing of the dangers of driving at speed.

The major disappointment with this ad is that impressionable children are deliberately deprived of time in school where they would no doubt receive instruction about respect for the environment, to say nothing of safe driving on roads. I understand beach access for vehicles is available in some areas, but this ad encourages speeding behaviour with Mitsubishi Outlander 4WD owners speeding to escape, in this instance, to make a departure time (implied by the 4WD stops in front of the seaplane).

Worse (?) the children are taken from school during what appears to be a normal teaching day, at a time when we rely on EDUCATION of school age children to establish a deep level of respect for the environment, this ad appears to "champion" the lack of schooling by the parents.

I believe thinking people are sick and tired of the entrenched reckless behaviour promoted by these sort of car ads.

THE ADVERTISER'S RESPONSE

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

As represented in the FCAI voluntary code of practice for motor vehicle advertising section 1. Definition - Part (c) – off road vehicles, I can confirm the Outlander is an SUV / off road vehicle with 4wd capability. However, I also confirm that driving of the vehicle complies with Section 2 General Provisions - Part A through E, in that the driving of the vehicle at all times complies with safe driving habits in relation to speed, the environment, changes in direction etc. The reality is there are a number of beaches across Australia upon which you can drive a vehicle (some close to cities some further removed) these beaches have varying speed limits ranging from 5 kilometres per hour to 80 kilometres per hour (Fraser Island). In this instance the vehicle is moving at a relevant speed (within the local speed limit) and with full driver control in relation to the conditions in which it is operating. Furthermore as can be seen from the commercial the vehicle is traversing an area where normal vehicle activity occurs thus not increasing any local environmental impact. Whilst the advertisement does show the children leaving school with their parents this is done at the exact moment of the end of day bell ringing. In essence an expression of leaving the school immediately at finishing time to commence the weekend family getaway. Hence, we do not believe the advertisement depicts removing children from school in the midst of a normal school day. Overall, Mitsubishi Motors Australia Limited do not believe the advertisement convenes any areas of the FCAI voluntary code of practice for motor vehicle advertising nor Section 2 of the AANA Advertising Code of Ethics.

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 Mitsubishi Outlander in a manner calculated to promote that product. The Board determined that the Mitsubishi Outlander 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 a Mitsubishi Outlander driving at speed on a beach which is both dangerous and illegal on most beaches. The Board then analysed specific sections of the FCAI Code and their application to the advertisement. The Board considered clause 2(b) of the FCAI Code. Clause 2(b) requires that Advertisements for motor vehicles do not portray...people driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published. The Board noted the advertisement features parents collecting their children at the end of school and taking them for a drive on the beach. The Board noted the advertiser's response that some of the advertisement was filmed on beaches where speed limits can range between 5km and 80km per hour. The Board noted that there are no speed limit signs visible in the advertisement, both in the scenes showing the vehicle travelling on public roads and when it is travelling on the beach, and considered that it is not possible to gauge the speed of the vehicle or to assess whether the vehicle would be traveling at speeds in excess of the relevant speed limits. The Board noted the complainant's concern that the vehicle appears to be speeding to meet a seaplane. The Board noted that the vehicle does come to a stop near a waiting seaplane but considered that there is no suggestion that the vehicle was driving at speeds in excess of the relevant speed limits in order to meet the seaplane. The Board considered that the driver appears to be in full control of the vehicle at all times and in the Board's view the vehicle does not appear to be travelling at speeds which would be dangerous, inappropriate or illegal in the driving scenes presented in the advertisement. The Board determined that the advertisement did not breach Clause 2(b) of the FCAI Code. The Board 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 it had recently dismissed a similar advertisement for an Isuzu in case 0408/14 where: "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 in the current advertisement that the advertiser had responded to say the beaches where the filming took place are areas used by vehicles and considered that most members of the community would be aware that it not legal to drive on most beaches in Australia. Consistent with its previous determination in case 0408/14 the Board considered that driving a vehicle on a beach where such driving is permitted does not depict, encourage or condone intentionally damaging the environment. The Board determined that the

advertisement did not breach Clause 2 (e) of the FCAI Code. Finding that the advertisement did not breach the FCAI Code, the Board dismissed the complaint.