



Case Report

1	Case Number	0510/10
2	Advertiser	Toyota Motor Corp Aust Ltd
3	Product	Vehicles
4	Type of Advertisement / media	TV
5	Date of Determination	19/01/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

Motor vehicles Unsafe driving

DESCRIPTION OF THE ADVERTISEMENT

A Camry is driving on a futuristic looking car treadmill in darkly lit studio. The camera moves around the car's best angles as the voice-over begins.

A virtual road appears and a fully lit-up like a Christmas tree virtual semi-trailer zooms backwards past the Camry into the darkness as if it is sucked into some black hole.

Suddenly the surroundings of the treadmill fall away and the Hybrid Camry appears to be driving on a virtual closed racetrack.

The road now sways and banks dramatically and the vehicle corners like it is on rails - thus highlighting the gripping handling abilities of VDIM.

Cut to end shot of Hybrid Camry parked on elevated treadmill. The driver is standing in front and does the Toyota leap.

THE COMPLAINT

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

This advertisement encourages reckless dangerous driving.

In one scene the speedometer shows the car rapidly accelerating in an Exhibition of Speed.

In another graphic depiction the vehicle is shown driving around a corner before losing control and crossing over into oncoming traffic.

I find it offensive that Toyota will encourage drivers to accelerate so quickly in a vehicle that due to it's cheap front-wheel-drive design cannot navigate a corner properly without suffering understeer and crossing into oncoming traffic.

THE ADVERTISER'S RESPONSE

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

At the outset, we would like to state that Toyota Motor Corporation Australia Ltd (Toyota) takes its responsibility as an advertiser very seriously. We make extensive efforts to understand and respond appropriately to community concerns and issues. Over and above this, we have established our own stringent internal review and approval process which includes obtaining legal advice.

We have carefully considered the complaint however we do not believe that the complaint can be substantiated. We also consider that the advertisement complies with all the provisions of the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (Code).

Specifics of the complaint:

A) "The speedometer shows the car rapidly accelerating in an Exhibition of Speed."

We believe the advertisement complies with the Code as:

*1) At no time does the speedometer exceed the maximum speed limit in force in any Australian State or Territory (maximum speed portrayed is less than 70km/h); and
2) At no time is the vehicle depicted engaging in unsafe driving practices; and
3) Further, the 3D modelling software used to generate this advertisement is calibrated to ensure that the vehicle cannot exceed a pre-determined speed limit. In this advertisement, it was determined that the demonstration of overtaking power was more appropriate in a highway driving situation (where that type of situation would be more likely occur) therefore determining the maximum speed possible of 110km/hr.*

B) "In another graphic depiction, the vehicle is shown driving around a corner before losing control and crossing over into oncoming traffic."

*1) The advertisement clearly portrays the vehicle in a testing facility environment on a holographic test track, with the lane markings of a test track rather than a public road, so crossing them is both acceptable and expected given the environment; and
2) For the duration of the advertisement, the vehicle is situated on a treadmill and at no stage is it shown 'losing control'; to the contrary, the vehicle is portrayed as clearly maintaining control; and
3) There is no other traffic on the circuit during the cornering and handling demonstration, and further, nothing to suggest that the vehicle is facing oncoming traffic.*

We believe that the above response addresses all elements raised in the complaint and demonstrates that all the relevant sections of the Code have been complied with in the creation of this advertisement.

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.

The Board determined that the material draws the attention of the public or a segment of it to a product being a Toyota Hybrid Camry in a manner calculated to promote that product. 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 Toyota Hybrid Camry 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 encourages reckless, dangerous driving and depicts excessive speed and a car using cruise control and crossing it to oncoming traffic.

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

The Board considered clause 2(a) of the FCAI Code. Clause 2(a) requires that: Advertisements for motor vehicles do not portray ...unsafe driving, including reckless or menacing driving that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast dealing with road safety or traffic regulation, if such driving were to occur on a road or road-related area, regardless of where the driving is depicted in the advertisement.'

The Board noted that the advertisement shows a Toyota Hybrid Camry apparently being driven on a futuristic looking car treadmill in a studio.

The Board noted that that the voiceover describes the overtaking power of the car as giving 'electrifying acceleration' and that the car is shown overtaking a holographic image of a truck.

The Board noted that the speedometer of the car is shown and it does not go above 70km/h and considered that the car is shown to overtake the truck in a safe and controlled manner which is well within the speed limit you would expect had this taken place on an actual road.

The Board noted that when the car overtakes the truck there is no other traffic depicted and considered that if this manoeuvre were to take place on a real road in similar conditions with no oncoming traffic this would not be an unsafe driving practice.

On the above basis, the Board determined that the advertisement does not depict unsafe driving nor reckless or menacing driving that would breach any law and does not breach clause 2(a) of the FCAI Code.

The Board then considered whether the advertisement breached clause 2(b) of the Code. Clause 2 (b) provides that advertisements should not depict “People driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast.”

The Board noted the advertiser’s response that the performance of the car is depicted using a holographic test track and that the speedometer of the car does not go above 70km/h. The Board considered that the car is shown to be driving in a controlled manner throughout the advertisement and determined that the advertisement did not breach clause 2(b) of the Code.

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