



CASE REPORT

- | | |
|-------------------------------|--|
| 1. Complaint reference number | 124/08 |
| 2. Advertiser | Toyota Motor Corporation |
| 3. Product | Vehicles |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | FCAI - Driving practice that would breach the law
FCAI - Environmental damage |
| 6. Date of determination | Wednesday, 11 June 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

Images of rolling clouds and outback Australia are transposed with the following voiceover "From the crumpled land, life-thieving sand, of grit and gravelled gorge. The razored rock bone-dry blocks of heat and bastard dust. Through the flood-ravaged soak, strangling smoke of drought on end on end." Images of underground and underwater. Then the ground begins to lift as though being pushed/drilled from within ... "Neath the murderous gaze, this ancient stage, life is born again." Vehicle erupts from the ground spraying rocks and dirt into the air. The vehicle is then shown driving in an off road terrain, a cloud of dust appears behind the car. As the car stops in the middle of nowhere text on screen states BORN ON EARTH. THE EARTH'S GREATEST 4WD IS HERE. NEW LANDCRUISER 200.

THE COMPLAINT

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

The advertisement commences with landscape views of the outback and a car being 'conceived' under the surface and driving under the surface causing significant environmental damage.

Eventually the car is 'born' and emerges from below the surface at speed and is airborne. The vehicle then continues to drive erratically and at speed in the outback.

This is a direct breach of Clause 2(a) of the Code as the vehicle is driving erratically and at speed, both of which have significant road safety implications. The explanatory notes of the Code clearly state that the "advertisers should ensure that advertisements for motor vehicles do not portray unsafe driving, including reckless and menacing driving..."

While it is recognised that this advertisement takes place on an off-road environment it still strongly promotes reckless driving and clearly undermines the spirit of the FCAI Code while contradicting road safety messages. It therefore requires immediate withdrawal.

On these grounds, I ask the Advertising Standards Board to demand the immediate and permanent withdrawal of the Toyota Landcruiser 200 television advertisement referred to above, and to discourage similar advertisements being produced.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

It is our firm belief that the LC200 TVC does not breach the FCAI Voluntary Code of Practice for Motor Vehicle Advertising (Code). Toyota maintains that the portrayal of driving activity is intended to be received as fictitious, and quite obviously falls in the realm of advertising puffery. Furthermore, Toyota maintains that there is nothing dangerous, illegal, aggressive or reckless in the driving portrayed in the TVC.

Please find below a detailed response in respect to the RTA's specific complaints:

1. "...significant environmental damage"

This TVC was shot in the Flinders Ranges in 2007, with approval from various National Parks, Wildlife and Property owners. The driving was done inside of a private property, and at no time did we harm the environment or any wildlife. The effect of the LandCruiser being conceived or Born of the Earth, were a mixture of shots from the harshest environment which Australia has to offer. All of the effects which portray the LandCruiser growing beneath the earth were created in post production using CGI (Computer Graphic Imagery). It was then taken into 2D (Flame) and placed into the live footage (Plate shots of the un-touched Flinders Ranges environment). The total process in post production took 5 weeks to complete, to ensure it looked realistic to the eye.

2. "Breach of Clause 2(a) of the Code"

We, along with our advertising agency, Saatchi & Saatchi, always ensure compliance with the Code at all times. Compliance begins from the creation of the script, through to the shoot, and the final product. While not definitive, CAD would not allow this TVC to air if it believed to do so would breach the Code. We have attached a letter written to CAD for your reference.

The way the LandCruiser was shot for the end driving sequence (from a helicopter), may give the impression that the LandCruiser is travelling faster than it actually did. At no time did the vehicle drive in excess of 60kph. To ensure this occurs, we always use a trained stunt driver who is also required to sign documentation agreeing to drive as directed. The dust may also add to the impression re: speed, given the land was so dry and any vehicular movement generated enormous amounts of dust. In fact, the scene where the LandCruiser bursts from the earth was filmed as the car was driving 15kph! Accordingly, we do not agree that this TVC portrays any dangerous, illegal, reckless or menacing driving.

In our view, it was extremely important not to showcase the outback in a glorified manner, as the despair of the drought that our farmers are experiencing is extreme. South Australia is the driest state in Australia. They have not experienced rain in some of the locations we filmed for over 16 years. The powerful birth imagery of this TVC reinforces that it is the vehicle that will help these men and women get to their destinations safely.

Accordingly, based on the above reasons we do not think the LC200 TVC breaches the Code.

THE DETERMINATION

The Advertising Standards Board ("Board") first considered this advertisement under 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' for a 'motor vehicle'. The Board considered that the advertisement for the Toyota Landcruiser satisfied these criteria.

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

The Board considered that the Toyota Landcruiser was an 'off road vehicle' as defined in the FCAI Code. The Board identified that clauses 2(a) and 2(e) were the relevant in the circumstances.

The Board first considered whether clause 2(a) of the Code had been breached.

In order to breach clause 2(a) of the FCAI Codes the advertisement must portray: "Unsafe driving, including reckless and menacing driving..."

The Board carefully viewed the advertisement and considered that there was no depiction of any unsafe driving in the advertisement in particular it was impossible to gauge the speed of the vehicle being driven across the desert as the large amount of dust suggested that the vehicle was travelling faster than it actually was. The Board also considered that the image of the vehicle coming out from under the ground was not representative of a speeding vehicle.

The Board considered that there was no breach of clause 2(a).

The Board then considered whether clause 2(e) of the Code had been breached.

In order to breach clause 2(e) of the FCAI Code, the advertisement must portray: “Deliberate and significant environmental damage, particularly in advertising for off-road vehicles...”

The Board noted that, in terms of driving, the advertisement depicted the Toyota Landcruiser crossing desert-like terrain. Although the vehicle was clearly throwing up a large amount of dust the Board did not consider that the advertisement’s image of the Toyota crossing the desert was a depiction of deliberate or significant environmental damage.

The Board then considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted that the majority of the community would view the advertisement as being based on fantasy and Australian outback folklore.

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