



## **CASE REPORT**

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|-------------------------------|-----------------------|
| 1. Complaint reference number | 142/04                |
| 2. Advertiser                 | Holden Ltd (Adventra) |
| 3. Product                    | vehicles              |
| 4. Type of advertisement      | TV                    |
| 5. Nature of complaint        | FCAI - Other          |
| 6. Date of determination      | Tuesday, 8 June 2004  |
| 7. DETERMINATION              | Dismissed             |

## **DESCRIPTION OF THE ADVERTISEMENT**

The advertisement depicts a family in a Holden Adventra vehicle driving on the beach and on sandy roads to get to their beachside holiday house.

## **THE COMPLAINT**

Comments which the complainant/s made included the following:

*“The vehicle is driven over pristine beaches in Northern Australia. This kind of presentation encourages environmental vandalism in other Australians and overseas visitors. BEACHES ARE NOT ROADS.”*

## **THE ADVERTISER’S RESPONSE**

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

*“Holden chose a beach location where beach access for vehicles is allowable by law and in character with the normal driving practices of the area.”*

*“We note that prior to filming, Holden obtained the approval of the local council and the local police were also advised of the activity.”*

*“Rainbow Beach is an alternative traffic route through to Fraser Island there are obvious road traffic signs and driver instructions displayed.”*

*“The driving portrayed throughout the TVC is not reckless or in a manner that would cause environmental damage to a beach.”*

*“Holden believes that the Adventra advertisement portrays a typical beachside driving scenario in a legitimate, safe and responsible manner.”*

## **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 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 Holden Adventra “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 Holden Adventra 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 then analysed specific sections of the FCAI Code and their application to the advertisement. The Board identified that clause 2(g) was relevant in the circumstances.

Clause 2(g) of the Code provides that Advertisers should ensure that advertisements for motor vehicles do not portray:

*“Deliberate and significant environmental damage, particularly when advertising off-road motor vehicles.”*

The Board noted the advertiser’s comment that the driving practices were shot on beach locations where vehicle access was permitted. The Board also noted that the vehicle was driven at normal speed in a safe and responsible manner. The Board was not therefore convinced that there was either deliberate or significant environmental damage within the meaning of the clause 2(g) of the Code. There were no demonstrations of overt destruction or harm to the environment.

On the above basis, the Board held that the material before it did not constitute an advertisement in breach of clause 2(g) of the FCAI Code. The Board therefore dismissed the complaint.