



CASE REPORT

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| 1. Complaint reference number | 162/08 |
| 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 |
| 6. Date of determination | Wednesday, 11 June 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

The advertisement begins with a close up of a road, a Toyota TRD Aurion appears on the horizon driving toward the camera. As a voice over begins several close-ups of features of the car are shown. The voice over states: It's the world's first production car to feature a four-lobe Eaton supercharger. It's the TRD Aurion, from Toyota Racing Development...

Throughout the voice over aerial shots show the car driving on a range of open roads, in a variety of weather conditions.

The voice over continues: A powerful quad-cam V6 delivers 241kilowatts and 400 Newton meters. Dynamic sports suspension delivers sensational handling. And a test drive will deliver the drive of your life. See your Toyota Dealer today and experience the supercharged TRD Aurion.

The advertisement cuts to the TRD Aurion and Toyota logos.

Voice over concludes: Oh what a feeling, Toyota!

THE COMPLAINT

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

This advertisement makes a strong association between the Toyota Aurion V6 and a racing vehicle throughout the advertisement. It uses terms such as "supercharged", "powerful" and "sensational handling" while associating all these references with a racing vehicle.

This advertisement clearly breaches the spirit of the Code by making strong references between a commercial sedan and Toyota Racing Development. The implied message is that to drive an Aurion V6 is to drive a racing vehicle. This is in direct conflict with accepted road safety messages.

I therefore ask the Advertising Standards Board to demand the immediate and permanent withdrawal of the Toyota Aurion V6 advertisement referred to above, and to discourage similar depiction of vehicles in advertisements.

THE ADVERTISER'S RESPONSE

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

Toyota Australia 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 thorough internal review processes (including internal legal review) to ensure our communications conform to our own strict standards.

Additionally we always seek independent legal advice and that of the Commercials Acceptance Division to ensure suitability of the commercial, well before production begins. The TRD Aurion TV advertisement, like all of our advertising has passed through this rigorous process.

It is our firm belief that the commercial in question does not breach the FCAI Code of Practice for Motor Vehicle Advertising ('Code').

The sole premise of this commercial is to launch the TRD Aurion production vehicle, and highlight the car's unique attributes. As such, the only footage shown is of the TRD Aurion itself.

There is no depiction of any Racing or Motorsport vehicles or competition whatsoever (and thus nothing subject to governance by clause 3 of the Code).

The only mention of the word "Racing" is in the spoken brand phrase "Toyota Racing Development", from which the TRD Aurion takes its name.

In reference to clause 2 of the Code, we have ensured that all of the shots of the black TRD Aurion that are depicted on a road, or road related area, comply with the Code, and do not depict unsafe driving or excessive speed.

In his complaint, Dr Soames makes specific reference to "a strong association between the Toyota Aurion V6 and a racing vehicle throughout the advertisement." In our view, this is incorrect, given no comparison whatsoever with (and, in fact, no mention at all, of) any racing vehicle. In fact, the voice over in the commercial clearly identifies the TRD Aurion as a "production vehicle" at the outset.

Dr Soames also claims the advertisement "uses terms such as 'supercharged', 'powerful' and 'sensational handling' while associating all these references with a racing vehicle. "The advertisement does indeed mention these attributes, as they are key selling points of the car. However, in doing so no representation, express or implied, is made that the vehicle should be driven like a racing vehicle.

In summary, our strong view is that this advertisement does not breach the FCAI code, as:

- no racing imagery used at all;*
- the TRD Aurion is clearly identified as a production vehicle;*
- there are no direct comparisons between the TRD Aurion and a racing vehicle;*
- at no time is dangerous, illegal, aggressive or reckless driving depicted or encouraged.*
- all driving vision complies with speed and road safety regulations.*

Based on the above we request that the ASB reject the complaint.

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"). The Board determined that the material before it was an "advertisement for a motor vehicle" and therefore that the FCAI Code applied.

The Board considered that clause 3 of the FCAI Code which permits advertisers to 'make use of scenes of motor sport; simulated motor sport; and vehicle testing or proving in advertising' did not apply because racing cars were depicted. The vehicle used in the advertisement was a plain black, devoid of any racing colours.

The Board then considered clause 2(a) of the FCAI Code. Clause 2(a) provides that advertisers should ensure that advertisements for motor vehicles do not portray any of the following '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 considered the images of the Aurion and considered that there was no depiction of any unsafe driving in the advertisement. The Board considered that there was no breach of clause 2(a).

The Board also considered clause 2(b) which provides that advertisers should ensure that advertisements for motor vehicles do not portray any of the following 'People driving in speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast.' The Board considered that there was no depiction of cars being driven at excessive

speed.

The Board considered that clauses 2(c), (d), and (e), of the FCAI Code were not relevant to the present advertisement.

The Board determined that the advertisement did not breach any of the clauses of the FCAI Code.

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

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