



## **CASE REPORT**

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| 1. Complaint reference number | 181/09   |
| 2. Advertiser                 | Ssangyong Motors (Rexton AWD)  |
| 3. Product                    | Vehicles   |
| 4. Type of advertisement      | Print  |
| 5. Nature of complaint        | FCAI - Driving practice that would breach the law<br>Other - Social values |
| 6. Date of determination      | Thursday, 14 May 2009  |
| 7. DETERMINATION              | Dismissed  |

## **DESCRIPTION OF THE ADVERTISEMENT**

Print image promoting the Ssangyong Rexton 4WD, shows the vehicle with a chain attached to its tow bar. The other end of the chain is wrapped a number of times around an Automatic Teller Machine. The ATM appears to have been pulled out of a building. The words "THE 'PULL ANYTHING' DIESEL" appear above the image of the ATM.

## **THE COMPLAINT**

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

- \* *The ad is highly irresponsible in depicting an act of stealing*
- \* *It is promoting/condoning a criminal offence*

## **THE ADVERTISER'S RESPONSE**

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

*We have considered the complaint and the advertisement in question in light of the provisions of the AANA Code of Ethics ("the AANA Code") and the Federal Chamber of Automotive Industries Code of Practice for Motor Vehicle Advertising ("the FCAI Code"). We note that the complaint alleges that the advertisement breaches section 2(c) of the FCAI Code, which relates to driving practices that would breach the law, and that the complainant has raised specific concerns that the advertisement promotes or condones a criminal offence and is highly irresponsible in depicting an act of stealing.*

*We have carefully considered the AANA Code and the FCAI Code, and have assessed the provisions against the content of this advertisement. We believe that the advertisement does not breach the AANA Code or the FCAI Code.*

*Section 2.7 of the AANA Code provides that advertisements for motor vehicles shall comply with the FCAI Code, and that section 2.6 of the AANA Code shall not apply to advertisements to which the FCAI Code applies.*

*Section 2(c) of the FCAI Code provides that advertisers should ensure that advertisements for motor vehicles do not portray driving practices or actions which would, if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation.*

*As a preliminary point, whilst attacks on Automatic Teller Machines ("ATMs") may constitute a*

*criminal activity, we are not aware of any Commonwealth, State or Territory law dealing directly with road safety or traffic regulation that covers the action in question, namely, stealing from ATMs. As such, we do not think that section 2(c) of the FCAI Code applies to this complaint. That said, we consider the nature of the complaint raised by the complainant to be very serious, and it is our intention to always adhere to the highest standards when it comes to our advertisements. For this reason, we have below addressed the concerns raised in the complaint.*

*The press advertisement in question is a self-evident exaggeration of the recent spate of thefts from ATMs across Australia. The intention behind the advertisement was to play on that current issue in a humourous way to convey the powerful towing capabilities of our Ssangyong Rexton motor vehicle. The overall humorous and playful tone is emphasised by the line "The price is a steal".*

*As you may be aware, the recent thefts from ATMs were facilitated by the use of explosives. Plainly, it is not possible to rip an ATM out of a brick wall as depicted in the advertisement. It would be physically impossible to wrap the chain around the ATM in the first place. The advertisement is depicting a fantasy scenario and, in our view, a reasonable person would interpret it as such. There is certainly nothing in the advertisement that suggests that the advertiser in any way condones theft from ATMs. The ad is merely intended as a light-hearted and humourous exaggeration of a current topical event.*

*We have also considered the other provisions of section 2 of the AANA Code and do not think that the advertisement breaches any of those provisions.*

*For the above reasons we submit that the advertisement is not in breach of the AANA Code or the FCAI Code. If you require any further assistance or information please do not hesitate to contact me.*

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code") and the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (the "FCAI Code").

The Board noted the complainant's concerns that the advertisement's depiction of a vehicle appearing to have pulled an ATM out of a brick wall is a depiction of an act of stealing and is promoting/condoning a criminal offence.

The Board noted that a depiction of stealing may ordinarily be considered under Section 2.6 of the Code, having regard to whether the depiction is contrary to prevailing community standards on health and safety. However, the Board also noted that, under Section 2.7 of the Code, Section 2.6 does not apply to advertisements to which the FCAI Code applies. The Board noted that the FCAI Code applies to all forms and mediums for advertising of motor vehicles in Australia and, as such, applies to this advertisement. Accordingly, the Board determined that Section 2.6 was not applicable in this case. In any case, the Board noted that the advertisement was not a realistic depiction or endorsement of stealing an ATM.

The Board then considered whether the advertisement depicted material that was contrary to the FCAI Code. The Board noted that no actual driving is depicted in the advertisement and the image used is an unrealistic exaggeration of the "pulling" power of the vehicle and did not amount to representation of the power of the vehicle in a manner that would be inconsistent with any of the substantive provisions of the Code. The Board therefore found no breach of the FCAI Code.

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