



CASE REPORT

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| 1. Complaint reference number | 276/08 |
| 2. Advertiser | Holden Ltd |
| 3. Product | Vehicles |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Other - Social values |
| 6. Date of determination | Wednesday, 13 August 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features range of Holden Colorados at a building site, being laden with various materials, steel girders, oil drums, cement bags, logs, bricks etc. a male voice over announces "New Holden Colorado. Powerful turbo diesel, with 3 tonne towing capacity on 4 x 4. Tough has a new name." Throughout the car is shown in action, travelling across rocky terrain, through shallow beach water towing a boat, and towing a trailer with jet skis and splashing water towards the camera.

THE COMPLAINT

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

I believe that the advertisement encourages impressionable people to drive such vehicles in a dangerous and irresponsible manner. I also believe that in the current fuel crisis, people should not be encouraged to waste fuel in this way.

THE ADVERTISER'S RESPONSE

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

The new Holden Colorado TV commercial was shot within compliance of the FCAI code of practice. At all times the vehicle, whether on road or off road was driven within the legal speed limit of the road. It was not at any time driven in an irresponsible manner, the driving again, maintained legal speed limits at all times. On off road scenes, again, the vehicle was driven within a safe and legal speed. The vehicle was driven off road to demonstrate it has off road capability as it is a 4 wd vehicle.

In reference to point of environmentally insensitive driving, the vehicle at no time was driving in such a manner. In fact all relevant permits were granted to allow driving in certain country and beach areas. All permits require compliance to local laws and environmental policies. At no time was any damage caused due to the vehicle being driven in these areas. Please note, in reference to scenes of the vehicle driving on beach, these scenes were filmed at Bribie Island recreational area, permission and permits granted by Queensland Government and Environment Protection Agency.

In reference to loading of items in the vehicle, all measure were taken to load material in a safe manner. At no time were scenes depicting driving with load not secured. Materials were placed in the rear tray to assist in demonstrating the load carrying capability of the vehicle.

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 then went on to consider the substantive provisions of the FCAI Code. The Board first 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 carefully viewed the advertisement and considered that there was no depiction of any unsafe driving in the advertisement in particular that the images of the cars being driven in the streets was conducted at an obviously reasonable speed. 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) and clauses 3(a) and (b) of the FCAI Code were not relevant to the present advertisement.

Finally the Board considered clause 4 of the Code which states that 'An advertisement may legitimately depict the capabilities and performance of an off-road vehicle travelling over loose or unsealed surfaces, or uneven terrain, not forming part of a road or road related area. Such advertisements should not portray unsafe driving and vehicles must not travel at a speed which would contravene the laws of the State or Territory in which the advertisement is published or broadcast, were such driving to occur on a road or road related area.'

The Board considered that the images of the 4WD were clearly images of the car off road and while the car was depicted spraying up sand and water there was no suggestion that this driving was unsafe in the environment in which the car was driving nor that it was driving at excessive speed.

The Board determined that the advertisement did not breach any of the clauses of the FCAI Code and accordingly dismissed the complaints.

The Board then considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”). The Board determined that the advertisement did comply with the FCAI Code as per Section 2.7 of the Code. Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.