



CASE REPORT

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| 1. Complaint reference number | 315/07 |
| 2. Advertiser | Mitsubishi Motors Australia Ltd (Triton) |
| 3. Product | Vehicles |
| 4. Type of advertisement | Radio |
| 5. Nature of complaint | Violence Other – section 2.2
FCAI - Other |
| 6. Date of determination | Tuesday, 9 October 2007 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This radio advertisement features a male car passenger trying to sing rap music to the annoyance of his driver who explains "It's been a long day mate -do you have to do that?" As the passenger continues singing nonsensical lyrics the driver warns "Seriously, quit it would you mate?" and still gets no response. Suddenly there is the sound of a slap and the passenger's muffled voice is heard as though a hand has been clamped over it and he gasps "I can't breathe...". A male voiceover is heard to announce "Free up your left hand with the new automatic transmission now available in Mitsubishi's Triton Turbo diesel. Even better at getting the job done." The advertisement concludes with the passenger's strangled voice whispering "Boss - I can't breathe..."

THE COMPLAINT

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

Someone does not like the singing of his friend so he grabs his neck and stops him. Perile (sic) and kids can hear.

The advertisement has two male voices one of whom starts to talk in a 'rap' fashion and the other asks him to stop. After the actor is asked twice to stop and doesn't, listeners hear a sound which is obviously meant to mean the 'rapper' is being strangled. The voice over refers to the automatic car leaving you with one hand free and the Advert closes with the actor choking out "I can't breathe". The advertisement is puerile and if it is an attempt at humour, it fails miserably. In my view the advertisement promotes violence as a means of resolving disagreement or dispute. It is a disgrace.

THE ADVERTISER'S RESPONSE

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

The Advertisement is a simple one. It depends for its effect entirely on what we acknowledge to be tongue in cheek or slapstick humour in the form of a short comedy "sketch". It was intended to illustrate that with the type of automatic transmission available in the Mitsubishi Triton, the driver has the left hand free. It seeks to achieve that result by evoking in the mind of listeners the image of one person placing his left hand over the other person's mouth to muffle and eventually stop that person's (annoying) singing.

We note that where a complaint has been made to the Advertising Standards Board, the Board will apply section 2 of the Code in its entirety, and not merely with reference to issues specifically referred to in the complaint. We therefore address each aspect of section 2 that may apply to the Advertisement.

On that basis we note that sub-sections 2.1, 2.3, 2.4, 2.5, 2.7 and 2.8 of Code either do not apply to the Advertisement or the Advertisement is compliant and no further comment is in our view required.

With regard to sub-sections 2.2 and 2.6 and 2.7 of the Code, we say:

Sub-section 2.2 of the Code states that advertisements shall not present or portray violence unless it is justifiable in the context of the product or service advertised. The covering of the singers mouth to stop him from singing is not to “portray violence” – and would not be viewed in that way by a reasonable and objective listener – let alone one with some sense of humour. The Advertisement is tongue in cheek and does not in any way condone or encourage violence. In any event, this does not appear to be the basis of the complaint. The complaint (as we understand it) specifically asserts that the Advertisement is ‘puerile’, which is an assertion that it is childish (or perhaps even in bad taste) – but not that it is violent.

Sub-section 2.6 of the Code states that advertisements shall not depict material contrary to prevailing community standards on health and safety. In light of recent television shows such as “Australian Idol” and “Australia You’ve Got Talent”, we suggest that one cannot say that it is against community standards on health and safety to silence bad singing – or to do so in the manner suggested in the Advertisement. The Advertisement is light hearted and does not depict material that is contrary to any reasonable view of prevailing community standards on health or safety.

For the reasons set out above we submit that the Advertisement would not be objectively viewed by any reasonable person as being violent or contrary to prevailing community standards on health or safety and that it is compliant with the Code in every respect. We therefore also submit that the Complaint should be dismissed.

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 noted that the advertisement is a radio advertisement and there are no depictions of driving in the advertisement. There are however references to the person driving the vehicle. The Board noted that the complainant's concern about the driver of the vehicle sounding as if he was driving at the same time as attempting to silence the passenger.

The Board considered that there was no suggestion of unsafe driving and that clause 2(a) was not relevant in the circumstances.

The Board considered whether the advertisement depicted "driving practices or other 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..." under clause 2(c) of the FCAI Code. The Board noted that it is not illegal to drive with only one hand on the steering wheel (as suggested in the advertisement) and that the advertisement did not therefore breach clause 2(c) of the FCAI Code.

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

The Board then considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”). The Board noted that section 2.6 of the Code does not apply to advertisements to which the Car Code applies.

The Board considered whether the advertisement's reference to attempting to silence the passenger and the sound of a slap was a depiction of violence that would breach section 2.2 of the Code. The Board considered that the references to silencing the passenger from his annoying rap singing was humorous and the suggestion of stifling his singing was slapstick. On the basis that most people would consider the reference humorous the Board determined that the advertisement did not contain violence in breach of section 2.2 of the Code.

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