



CASE REPORT

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| 1. Complaint reference number | 344/09 |
| 2. Advertiser | Honda Australia P/L |
| 3. Product | Vehicles |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | FCAI - Driving practice that would breach the law
FCAI - Speeding |
| 6. Date of determination | Wednesday, 12 August 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

The television advertisement shows a new (silver) Honda on a race course with rock music playing in the background. The voice over states: "the precision engineered Honda Accord Euro has beaten 34 of the world's very best cars, to win Australia's ultimate automotive award, so take "Wheels car of the year for a test drive today". The advertisement shows a close up of various part of the car and the front interior of the car.

THE COMPLAINT

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

As other advertising is banned for "hoon" driving I would like to see this ad also banned for illegal driving behaviour.

As a parallel, the BMW Z4 advert depicting a car driving on an artistic canvas, whilst painting with spinning wheels depicts improper driving behaviour, then clearly speeding also depicts improper driving behaviour.

In the final in car sequence displayed during the advertisement the car can be clearly seen exceeding the speed limit of ALL Australian roads.

The speedometer is clearly shown exceeding 120kph at this time, in 4th gear at approximately 4500rpm.

If illegal driving behaviour is not permitted to be shown in other advertising then this advert MUST clearly be removed from the airwaves also.

THE ADVERTISER'S RESPONSE

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

The advertisement has been broadcast across all States and Territories of Australia, and has also been made available on the Internet, since its initial release on 19 February 2009.

Honda's response initially examines two sequences in the advertisement subject to the complaint. The first is clear vision of the vehicle's speedometer, the second is blurred vision of the instrument cluster later in the ad. The complainant's discussion centres on these two sequences.

On close inspection of the advertisement, Honda acknowledges that if a viewer were to purposely 'overlay' the speedometer layout from the first sequence onto the blurred vision in the second sequence, it could be inferred that the vehicle is traveling above the speed limit. However at normal viewing distances, it is Honda's contention that a viewer would be unable to ascertain the vehicle's speed from the second sequence alone and would be otherwise unable to ascertain the

depicted speed without purposely setting out to do so.

We would also point out that the blurred speedometer vision is on screen for a total of nine frames. At 25 frames per second, this amounts to approximately one third of a second.

Honda does not believe that the vehicle is shown "clearly exceeding 120kph". The purpose of the second sequence is to highlight the Honda 'H' in the steering wheel and not the instrument cluster, which is precisely why the background is deliberately blurred.

Further, and while the TVC does indeed show the Honda Accord Euro navigating a race track, at no stage is the vehicle pushed to its limits. In fact, the very nature of the TVC is such that the controlled precision driving characteristics of the vehicle are being exemplified, as it is shown to easily negotiate through the course laid out before it.

It is Honda's belief that at no stage during the TVC is the vehicle depicted engaging in any "hoon driving" (complainant's words). Indeed, the depiction of any such driving practices would go against Honda's long-held commitment to safety, as well as Honda's unwavering support of the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising ("FCAI Code").

While the up-tempo music and voice over of the TVC do provide a fresh, upbeat tone for the advertisement, and the camera angles and dynamic framing used allow for a sporty feel to the TVC, Honda can assure the ASB and the complainant in this instance that the driving depicted in the TVC is at all times controlled and well within the performance capabilities of the vehicle.

Importantly, while it was necessary to obtain the permission of the race track's private operators, Phillip Island Grand Prix Circuit, to film the TVC at the race track, there were no additional permissions or licenses required to film any of the footage depicted in the TVC.

Advertiser's comments regarding the AANA Code of Ethics and the FCAI Code

Honda acknowledges its obligations to comply with the Australian Association of National Advertisers Code of Ethics ("AANA Code of Ethics") and by extension, the FCAI Code, and as outlined above, Honda has always taken these obligations very seriously.

*In particular, Honda acknowledges clause 3 of the FCAI Code, which provides that:
"...advertisers may make use of scenes of motor sport; simulated motor sport; and vehicle-testing or proving in advertising, subject to the following:*

- a) Such scenes should be clearly identifiable as part of an organised motor sport activity, or testing or proving activity, of a type for which a permit would normally be available in Australia.*
- b) Any racing or competing vehicles depicted in motor sport scenes should be in clearly identifiable racing livery."*

However, importantly, Honda is of the view that the scenes depicted within the TVC do not amount to scenes of motor sport, simulated motor sport, or vehicle-testing or proving of a type for which a permit would normally be required in Australia. Therefore, the provisions of clause 3 of the FCAI Code do not apply in this instance. Again, while the TVC uses a race track as a setting, the TVC clearly does not depict any scenes of motor sport. While permission was required in order to film at the race track, this should not be confused with the requirement of a license or permit to conduct a rally driving exercise, a drag racing event or some other form of organized motor sport.

In summary of the above discussion, Honda's accepts that the advertisement may technically be in breach of Clause 2 of the FCAI Code, albeit that a consumer must go to some considerable length in order to determine this.

Notwithstanding the above, Honda has elected to, within the next 14 days, modify the nine frames to eliminate any potential misinterpretation of the intent of the advertisement.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches the clauses 2 and 3 of the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising ("the FCAI Code")

The Board acknowledged the complainant's concern that the advertisement displays improper driving and that the speedometer of the vehicle is clearly shown exceeding 120kpm in 4th gear at approximately 4500rpm.

The Board noted the advertiser's response, that the purpose of the race track was to demonstrate the vehicle's 'controlled with precision' driving characteristics.

Pursuant to section 2(a) of the FCAI Code, the Board's role is to determine whether the advertisement depicted unsafe driving, including reckless and 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 that there was no content within the advertisement to suggest unsafe or illegal driving or excessive speeding and therefore was not in breach of section 2(a) of the FCAI Code.

The Board further observed that the frames where the speedometer was in view, were intended to feature the vehicle's steering wheel and noted that the vision of the speed on the speedometer was in fact blurred, and not clearly legible.

The Board considered that the image of the speedometer was extremely brief and that when viewed by a television consumer the speed would not be discernible and overall did not depict excessive speed or unsafe driving.

The Board noted the advertiser's commitment to modify the view of the speedometer so as to eliminate any potential misinterpretation of the intent of the advertisement.

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