



## **CASE REPORT**

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|-------------------------------|--------------------------------|
| 1. Complaint reference number | 353/07                         |
| 2. Advertiser                 | Holden Ltd (Hummer - Internet) |
| 3. Product                    | Vehicles                       |
| 4. Type of advertisement      | Internet                       |
| 5. Nature of complaint        | FCAI - Other                   |
| 6. Date of determination      | Tuesday, 13 November 2007      |
| 7. DETERMINATION              | Dismissed                      |

## **DESCRIPTION OF THE ADVERTISEMENT**

This internet advertisement features a shot from under the front grille of a Hummer and the words "Hummer. Like nothing else. Now get lost".

## **THE COMPLAINT**

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

*This advertisement encourages aggressive driving and road rage behaviour, and promotes the car as a vehicle of intimidation and violence. The road is a resource for everyone's use - it is a public resource. The Hummer ad suggests that if people own and drive hummers then they will be able to behave outside of the regular principles or consideration of other people's rights pertaining to road use.*

## **THE ADVERTISER'S RESPONSE**

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

*In relation to Section 2 of the FCAI Code our position is as follows:*

*Consistent with clause 2(a) of the Code, there is no depiction of unsafe, reckless or menacing driving in the advertisements nor do they portray or encourage "aggressive driving" or "road rage behaviour" as suggested by the complainant. Forming part of the HUMMER's Australian launch, the advertisements are intended to herald the long-awaited arrival, by many HUMMER enthusiasts, of the vehicle into the Australian market. Viewed in this context, the phrase "now get lost" reflects the HUMMER's off-road reputation, as a vehicle designed to handle the most extreme conditions, empowering the HUMMER driver to go anywhere imaginable and 'get lost' in the HUMMER experience. The image of the HUMMER grille in the Print Advertisements is also intended to reflect the sturdy and stylish nature of the HUMMER.*

*Accordingly, it is our view that the advertisements comply with Section 2 of the FCAI code.*

## **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 whether the wording 'now get lost' suggested violence or aggressive and unsafe driving. The Board noted the advertiser's response that the wording was intended to describe the off road capabilities of the vehicle. The Board considered that although the interpretation placed by the advertiser was likely, it was also likely that it could be interpreted as a suggestion that other cars should get out of the way of this vehicle. Despite the second interpretation the Board considered that this did not amount to a suggestion of unsafe driving or driving that would be so reckless or menacing that it would breach a road safety law. The Board considered that there was no breach of clause 2(a).

The Board considered that clauses 2(b), (d), (e), and 3 and 4 of the FCAI Code were not relevant to the present advertisement.

The Board also considered clause 2(c) and 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 in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation.' The Board considered that there was a suggestion that other cars should get out of the way of this vehicle and that this could be taken as suggestive of road rage by the driver of the Hummer. However the Board considered that the wording of the advertisement while of some concern was ambiguous (with the alternative suggestion being that the car is good for driving anywhere ie: off road) and was not clearly enough suggestive of unlawful behaviour of the driver to amount to a breach of clause 2(c).

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 the advertisement breached any of the provisions of the AANA Advertiser Code of Ethics. In particular the Board considered whether the advertisement presented or portrayed violence unless it is justifiable in the context of the product of service advertised. The Board considered that there was a suggestion that other cars should get out of the way of this vehicle and that this could be taken as suggestive of road rage or aggressive driving. However the Board considered that the wording of the advertisement while of some concern was ambiguous (with the alternative suggestion being that the car is good for driving anywhere ie: off road) and was not clearly enough suggestive of violence to amount to a breach of section 2.2.

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