



CASE REPORT

1. Complaint reference number	373/03
2. Advertiser	Toyota Motor Corporation Ltd (Landcruiser)
3. Product	Vehicles
4. Type of advertisement	TV
5. Nature of complaint	FCAI - Other
6. Date of determination	Tuesday, 11 November 2003
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

The material reviewed by the Board includes the depiction of a man being bitten by a snake whilst in the bush. He then drives his Landcruiser over rough terrain and through hallucinations, to reach a hospital.

THE COMPLAINT

Comments which the complainant/s made included the following:

".... it sends out the wrong message, something like own a Toyota, get bitten by a snake & drive, put other people at risk and you will be ok because you will make it to a hospital in time."

"... the vision was horrific to watch ..."

".... nothing better than a B grade horror movie and totally offensive to come into my lounge room."

"This ad upsets me greatly and as said previously, in very poor taste."

THE ADVERTISER'S RESPONSE

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

"The depiction is dramatic and clearly fantasy."

THE DETERMINATION

FCAI Code

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").

To come within the FCAI Code, the material being considered must be an "advertisement". The FCAI Code defines an "advertisement" as follows:

"...matter which is published or broadcast in all of Australia, or in a substantial section of Australia, for payment or other valuable consideration and which draws the attention of the public, or a segment of it, to a product, service, person, organisation or line of conduct in manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct".

The Board decided that the material in question was published or broadcast in all of Australia or in a

substantial section of Australia for payment or valuable consideration given that it was being broadcast on television in Australia.

The Board determined that the material draws the attention of the public or a segment of it to a “product” being a motor vehicle “in a manner calculated to promote... that product”. Having concluded that the material was an “advertisement” as defined by the FCAI Code, the Board then needed to determine whether that advertisement was for a “motor vehicle”. “Motor vehicle” is defined in the FCAI Code as meaning:

“passenger vehicle; motorcycle; light commercial vehicle and off-road vehicle”.

The Board determined that the landcruiser was a “Motor vehicle” as defined in 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 analysed specific sections of the FCAI Code and their application to the advertisement. The Board identified that clauses 2(a) and 2(b) might be relevant in the circumstances.

In order for clause 2(a) or 2(b) to be breached, the driving practices described in these clauses must take place “on a road or road-related area”.

In relation to clauses 2(a) and 2(b) of the FCAI Code, the Board first considered whether the driving depicted took place on a “road” as defined by the FCAI Code. The definition provides as follows:

“Road: means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles”

The Board considered that the driving depicted took place on rough terrain and at times even on an illusionary surface. The Board therefore found that it clearly did not take place on a “road or road related area”.

On the above basis, the Board held that the material before it did not constitute an advertisement for a motor vehicle in breach of clause 2(a) or 2(b) of the FCAI Code.

Advertiser Code of Ethics

The Board then considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted that the majority of the community would view the advertisement as being based on fantasy.

The Board found the depiction did not contravene the provisions of the Code relating to violence.

Further finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaint.