



CASE REPORT

1. Complaint reference number	413/08
2. Advertiser	Volvo Car Aust Pty Ltd
3. Product	Vehicles
4. Type of advertisement	TV
5. Nature of complaint	FCAI - Other
6. Date of determination	Thursday, 30 October 2008
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for Volvo's S80 vehicle opens on a scene on a luxury yacht then cuts to a scene showing a man abseiling down to a car. He sends a text message to a woman on the yacht. The woman then jumps from the yacht to catch hold of a rope hanging from a helicopter which flies past the yacht. The man then gets in the car, takes off driving through city scenes and brakes heavily to stop in front of a shop which he enters. He collects a paper bag. He is then shown again driving over a bridge and other scenes being followed by the helicopter. When the car reaches a wharf, the helicopter lands and the man and woman greet each other. The man then gives the woman a necklace which he pulls out of the bag. The advertisement ends with the slogan 'Life is better lived together' and a voice over which says - "the S80 luxury sports sedan - from Volvo".

THE COMPLAINT

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

The vehicle can be seen where the following offences are depicted. These are offences in NSW where the advertisement was broadcast. As such, the ad breaches Sections 2 (a) and 2 (c) of the FCAI Code:

1. The vehicle is seen being driven entirely on the wrong side of double lines.

2. There is no front number-plate. The rear plate is TB-67038 so clearly, the front-plate is missing. This is a very serious offence in NSW and attracts a penalty exceeding \$250 and 3 Demerit Points.

3. The vehicle is seen screeching tyres and clearly racing the helicopter. This constitutes offences under Section 40 of the Road Transport (Safety and Traffic Management) Act; Races, attempts on speed records and other speed trials, Section 42 of the Act; Negligent, furious or reckless driving and Section 43 of the Act.

Please note, the code does not excuse this behaviour because of the following clause:

"FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles. However, such devices should not be used in any way to contradict, circumvent or undermine the provisions of the Code."

THE ADVERTISER'S RESPONSE

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

Our responses to the complainant's concerns are listed below.

'1. The vehicle is seen being driven entirely on the wrong side of double lines'.

As mentioned above, this TV advertisement was produced in North America. The car is a left hand drive vehicle and is therefore driving on the right side of the road as per US regulations. A super on the screen that says 'Overseas model shown' to demonstrate that it is not an Australian specification vehicle.

'2. There is no front number plate. The rear plate is TB 67038, so clearly the front plate is missing ...'

As per the above concern. The vehicle in the advertisement was filmed in the US where in certain states the front number plate is not required to be shown.

'3. The vehicle is seen to be screeching tyres and clearly racing the helicopter ...'

Tyre noise sound effects are used in the TVC to heighten the drama in line with the James Bond-esque story line of the advertisement. The car remains within the speed limit at all times during the advertisement. The vehicle is in no way racing the helicopter. The final scenes show the car and helicopter arriving at a common destination for the purpose of the characters meeting together at their agreed 'rendezvous' point.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”) and the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (the “FCAI Code”).

In regard to the complainants' concerns about the lack of a front number plate and the vehicle being driven on the wrong side of the road, the Board noted the advertiser response that an overseas model is depicted and that the advertisement features text indicating “overseas model shown”. The Board noted that the FCAI Code has been developed to apply to advertisements that raise issues concerning road safety and vehicle occupant protection. It noted that the absence of number plates on motor vehicles being advertised does not raise an issue of road safety or vehicle occupant protection. The Board also noted that the image of a left-hand drive vehicle driving on the right-hand side of the road is acceptable when the footage is provided for an Australian company by its overseas parent company. It noted that the broadcast image does not raise an issue of road safety or vehicle occupant protection. The Board therefore concluded both matters are outside the scope of the FCAI Code and not relevant for its determination.

The Board considered Sections 40(1) (races, attempts on speed records and other speed trials), 42 (negligent, furious or reckless driving) and 43 (menacing driving) of the *Road Transport (Safety and Traffic Management) Act 1999*. The Board noted the advertiser response in regard to the sound of screeching tyres used in the advertisement, and agreed that this was for dramatic effect and the vehicle was not actually shown driving over the speed limit. The Board also considered that the vehicle was not shown to be driving in a negligent, furious, reckless or menacing manner. Additionally, the Board did not agree that the vehicle was depicted as racing the helicopter, but is simply shown travelling towards the same destination as the helicopter.

The Board did not therefore find any unsafe driving depicted and determined the advertisement was not in breach of Section 2(a) of the FCAI Code. The Board also considered that there was no breach of Section 2(c) or any other provisions of the FCAI Code.

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