



## **CASE REPORT**

1. Complaint reference number	444/08
2. Advertiser	Harley-Davidson South West
3. Product	Vehicles
4. Type of advertisement	TV
5. Nature of complaint	Health and safety – section 2.6 FCAI - Speeding
6. Date of determination	Wednesday, 12 November 2008
7. DETERMINATION	Upheld – discontinued or modified

## **DESCRIPTION OF THE ADVERTISEMENT**

This television advertisement for South West Harley-Davidson shows motorcycles being ridden in various motorcycle sporting events such as speedway and drag racing. It also shows motorcycles being ridden on straight open roads, mountain roads and in city areas. The words "We must go faster" are repeated throughout the advertisement.

## **THE COMPLAINT**

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

- 1) Motor cycle riders appear in disproportionately higher numbers in road crashes.*
- 2) The footage shows drag bikes revving up and doing burnouts.*
- 3) The voice over and continual swapping of video footage accentuates the drag bike performance to make the road bikes appear that it is all right (indeed encouraging them) to go faster on the streets.*

## **THE ADVERTISER'S RESPONSE**

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

*The ad has a G rating. As this classification has been issued, I feel I have met my responsibility in regard to the nature and content of the ad.*

*Harley-Davidson has a rich motorcycle racing heritage over the 106 years it has been in business and as all automotive companies involved in off road racing activities we use this success to promote the road going product, the racing/burnout scenes in the ad are quite clearly done in a controlled safe environment and the scenes on road do not show or condone any dangerous or illegal activity.*

## **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").

The Board noted that the advertisement is for the South West Harley-Davidson dealership, rather than "for motor vehicles", and as such the FCAI Code did not apply. The Board therefore considered the

application of Section 2.6 of the Code, relating to health and safety.

The Board noted the complainants' concern that the advertisement depicted "drag" motorcycles, interspersed with footage of road motorcycles, and that the advertisement might encourage motorcyclists to go faster on standard roads.

The Board considered that the images of motorcycles racing were clearly identifiable as part of motor sport, by the racing livery and locations shown, and that the display of those images was not contrary to community standards of safety.

The Board noted that some footage in the advertisement showed motorcycles being driven on the right-hand side of the road. The Board recognised that these images were where an overseas model and footage was shown. The Board noted that the FCAI Code is aimed at safety issues and that the FCAI Code does not enable the Board to prohibit images of a vehicle driving on the right-hand side of the road when the footage is provided for an Australian company by an overseas parent company, provided that there is no unsafe driving depicted. The Board concluded that the advertisement did not depict any issues of safety.

The Board noted the depictions of the on-road motorcycles and considered that these images did suggest that the motorcycles were travelling at some speed. The Board agreed that the depictions did not depict or strongly suggest that the motorcycles were travelling above the speed limit or in a dangerous manner and that therefore these images were not contrary to community standards of safety. However, the Board was of the view that the repeated message stating "we must go faster" which accompanied the advertisement's soundtrack could encourage unsafe speeding and was in any event contrary to government messages and community standards about speeding and safe driving. The Board therefore considered the overall impact of the advertisement was suggestive of excessive speed and that is contrary to community standards.

The Board therefore determined that the advertisement was contrary to community standards of health and safety in breach of Section 2.6 of the Code, and upheld the complaints.

#### **ADVERTISER'S RESPONSE TO DETERMINATION**

Comments which the advertiser made in response to the determination regarding this advertisement included the following:

*In consideration of the Boards decision and after seeking opinion's from a wide range of people in regard to the content of the ad, I have decided that I can see the point of view that the voice over could have a suggestion that we condone or are encouraging people to "Go Faster" on the street. This was never our intention and we will be taking steps to have said voice over removed from the ad.*