



## **CASE REPORT**

1. Complaint reference number 46/07
2. Advertiser Hyundai Motor Co Aust Pty Ltd (Santa Fe - Next Generation)
3. Product Vehicles
4. Type of advertisement TV
5. Nature of complaint Portrayal of sex/sexuality/nudity – section 2.3  
Health and safety – section 2.6  
FCAI - Driving practice that would breach the law
6. Date of determination Tuesday, 13 February 2007
7. DETERMINATION Upheld – discontinued or modified

## **DESCRIPTION OF THE ADVERTISEMENT**

This television advertisement is backed by the song "The Wayward Wind" depicts a male toddler wearing a singlet and nappy, climbing out of his cot and taking car keys to his parents' Santa Fe. He gets in the car and starts driving. There are images of him smiling and waving to cars and stunned onlookers as he passes, resting his arm on the open window frame and revelling in the air flowing through his blond curls. Along a country road he sees a female toddler hitchhiking with a sign "West Coast" and carrying a backpack. She smiles and expresses delight at the driving experience as the car rides over a sand dune. Arriving at the beach, a surfboard is taken from the rear of the car and the boy is seen surfing the waves to the ecstatic joy of the little girl, watching from the rear of the car. A female voiceover announces "The next generation Hyundai Santa Fe is here" as the scene concludes with the small couple sitting on the car bonnet watching the sun go down, and the boy puts his arm around the girl's shoulders.

## **THE COMPLAINT**

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

*...young underage children driving their parents' cars...*

*...the sexualisation of children amounts to Corporate paedophilia. Placing toddlers in cars without appropriate restraining devices violates the laws of this land.*

*When the driver accelerated away from his passenger pick up, the car took off with skidding tyres and throwing up gravel like we see hoons do on our roads today.*

*It could trigger a real-like copycat of such an event by a walking toddler.*

*It also seems to portray that it is all right for girls to be "picked up" on the roadside and it is also most sexist as it shows the male doing all the major activity whilst the female passively watches.*

*This ad sends the wrong message to small children and undermines any warnings that their parents may give them.*

*It encourages children to try to drive a car and encourages them to hitch hike.*

## **THE ADVERTISER'S RESPONSE**

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

*Our starting point was to promote our new Santa Fe model in a way which would be lighthearted and extremely memorable, whilst showcasing some of the car's attractive qualities. The advertisement utilises a solution which is quite unlike conventional car advertising. The actors, who are babies in nappies, appear in a storyline which is clearly based in fantasy and self-evident exaggeration, with comedy generated by the blatantly ludicrous nature of their adventures and the reactions of bystanders. The sense of exaggeration is heightened by a 'Western' style musical soundtrack.*

*The finished commercial was the result of many hours of computer-generated animation and post-production, since obviously it is not physically possible for a baby to climb in and start the car, let alone drive it. At no point is the car shown being driven in an unsafe or irresponsible manner.*

*As such, our understanding is that the commercial complies with all relevant local legislation, the Australian Association of National Advertisers (AANA) Advertiser Code of Ethics, and the FCAI's Voluntary Code of Practice for Motor Vehicle Advertising.*

*The Santa Fe commercial was submitted to Free TV prior to broadcast, and received an on-air 'P' classification (parental guidance).*

*Clearly the commercial is not targeted at children, nor encouraging children or babies to drive cars. The commercial is obviously not intended to be taken seriously or literally and it is not reasonable to assume that children of any age will automatically adopt behaviour that they see. The fantasy element of the advertising is demonstrated by the fact that it is physically impossible for a child (baby in nappies) to drive a motor vehicle.*

*The commercial makes legitimate use of 'fantasy, humour and self-evident exaggeration', which are deemed allowable and appropriate uses of the advertising medium. Indeed, the use of fantasy, humour and exaggeration are so blatant as eliminate any serious possibility that people may believe the commercial was anything other than a fantasy – something reinforced by research in New Zealand (see below).*

*Around the time the campaign started, there were a couple of unrelated instances of children being injured or killed in car accidents. Substantial media time has been dedicated to these tragedies. We believe this has channeled the emotive response to our ads from a particular audience demographic.*

*The car is only ever shown driving at moderate speeds and in complete control at all times. It is also legal, with a permit, to drive on many beaches in Australia .*

*There is no sexist or overt sexual content. There is a far higher chance of sexual overtones or sexist content appearing in a PG classified TV show.*

*Hitchhiking is not illegal in all states of Australia . Hitchhiking is not a driving practice and as such does not contravene any of the advertising codes.*

*We believe very few, if any, of the ASB complainants would be aware that the commercial is only being aired within adult programming and we believe their reaction might have been different had they known this.*

*We at HMCA believe that, compared to the images habitually and continuously seen within general media freely available to children, there is no potential for our commercial to mislead or influence young children into behaving irresponsibly.*

*Our advertisement is not unique in being disliked or criticized by consumers – all forms of advertising are liked or disliked to varying degrees. Our belief is that the Santa Fe commercial is one of the most strongly and universally liked campaigns we have ever run, with an unusually small proportion of consumers disliking the advertisement.*

## **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 analysed specific sections of the FCAI Code and their application to the advertisement. The Board identified that clause 2(c), was relevant in the circumstances. The Board had to consider whether those clauses of the Code had been breached.

The Board viewed the advertisement and noted that small children were depicted driving vehicles. The Board agreed that in showing children driving the vehicles, the advertisement was depicting a driving practice that was in breach of the law.

The Board acknowledged that the advertisement employed fantasy and that the notion of a toddler competently driving a car was unrealistic. However the Board also noted that, while the FCAI Code generally allows fantasy to be employed, the explanatory notes to the Code specifically state that fantasy is not to be employed to contradict, circumvent or undermine the provisions of the Code. Despite the obvious 'fantasy' the Board was of the opinion that the legal requirement for a person to be of a certain age to drive a car on the road is a matter that cannot be circumvented in advertising by depicting underage persons driving.

The Board then considered whether the advertisement breached section 2 (c) of the code by depicting children in a vehicle restrained with inappropriate, unlawful restraints. The Board noted that the children were over one year old and that the law requires children less than one year old to be restrained in a child restraint which they did not appear to be. Nonetheless the Board acknowledged that toddlers of the age shown in the advertisement should be restrained in an approved child restraint as a matter of safety.

The Board agreed that the advertisement breached Section 2(c) of the FCAI Code on the basis that it depicted unlawful underage driving and children travelling in a car not in an approved child restraint.

The Board then considered whether the advertisement breached the AANA Advertiser Code of Ethics.

The Board first considered comments that the advertisement was sexist by depicting the boy baby driving and surfing and the girl baby only watching such activity. The Board considered that the advertisement's depictions were not of such a nature as to suggest that women and girls do not or should not or are incapable of driving or surfing and that there was no suggestion of discrimination or vilification against gender. The Board agreed that the advertisement did not breach Section 2.1 of the Code.

The Board also considered whether the advertisement depicted the sexualisation of children. The Board considered the general theme of the advertisement and the image of the boy toddler putting his arm around the girl toddler. The Board considered that the depictions were of children and that most members of the community would not consider that the advertisement depicted or suggested any inappropriately sexual or romantic actions to the children. The Board strongly agreed that the actions of the children, although mimicking adult behaviour, mimicked behaviour that was friendly and fun and that most members of the community would not consider that there were any sexual or inappropriate depictions in the advertisement. The Board agreed the advertisement did not treat sex, sexuality and nudity insensitively and hence that the advertisement did not breach Section 2.3 of the Code.

The Board also considered concerns expressed by complainants that the advertisement might encourage attempted imitation behaviour among young children. The Board considered that the depiction of a child driving a car was a depiction of material that was contrary to prevailing community standards on health and safety - in that young children are not permitted to drive cars.

The Board also considered the depiction of hitchhiking in the advertisement and considered that this depiction did not depict behaviour that was contrary to community standards on health or safety.

Finding that the advertisement did breach the Code, the Board upheld the complaint.

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

*It is with regret that this campaign has come to the situation of ASB review as the intention has always been to have a likeable, pleasant TVC that connects with the hearts of the Australian public. Results to date in both research into public acceptance as well as pure showroom traffic indicate this was being achieved.*

*As committed members of the FCAI and honouring our stated support to the ASB, HMCA accepts*

*this determination. Due to the central idea in the advertisement that drivers of then next generation Santa Fe are next generation minded people themselves, it is not possible to amend the campaign to comply without losing this idea.*

*As such this TVC was withdrawn in all paid electronic media form (Television, Online) effective today, 21 February 2007.*