



CASE REPORT

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| 1. Complaint reference number | 50/06 |
| 2. Advertiser | Honda Australia Pty Ltd (CRV) |
| 3. Product | Vehicles |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | FCAI - Other |
| 6. Date of determination | Tuesday, 14 February 2006 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a country council meeting in a local town hall. Slides are shown of various local roads which are in need of repair. He advises that the roads are in shocking condition and that repairing them should be a priority. He asks for a favourable vote but finds he is the only member to raise his hand. The car park in front of the hall is then shown revealing that the other council members all drive Honda CRVs.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Due to the current Christmas road toll and the deaths that have been attributed to (or suggested that) the state of the roads paid a contributing factor in the loss of lives, I find the Honda CRV... negates the need for road maintenance.

THE ADVERTISER'S RESPONSE

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

Honda Australia maintains that the advertisement complies with section 4 of the FCAI Code to the extent that it is an advertisement for an off-road vehicle and therefore the advertisement may legitimately depict the capabilities and performance of the CRV in the context of loose or unsealed surfaces or uneven terrain, albeit that this is entirely left to the power of suggestion (as no driving is actually shown at any point).

The intention of the commercial is not to convey any particular message or statement about road funding or the state of Australia's roads generally.

The portrayal of poorly repaired roads in motor vehicle advertising is not expressly prohibited anywhere in the 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").

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 Honda CRV “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 Honda CRV 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 complaint made in relation to the advertisement is that the advertisement implies that persons with Honda CRVs can be reckless as to the condition of roads and that such a message is inconsistent with road safety.

The Board noted that the advertisement did not portray any driving practices, and indeed in all of the advertisement the product advertised is stationary. The Board therefore noted that the complaint in this matter was not made under any of the formal provisions of the FCAI Code and that none of the formal provisions of the Code would apply as the provisions all relate to portrayals of persons **driving** the car being advertised and the behaviour of such persons as they are driving.

The Board noted that it was not able to uphold a complaint under the FCAI Code unless there has been a breach of the formal provisions of the FCAI Code. The Board noted that the relevant part of the Explanatory Notes is included in the FCAI Code as guidance to advertisers and this part of the Explanatory Notes could not be used by the Board to uphold a complaint where the formal provisions of the Code had been complied with.

On the above basis, the Board held that the material before it did not constitute an advertisement in breach of the provisions of the FCAI Code. The Board, therefore, dismissed the complaint.

The Board also considered whether the advertisement breached the Advertiser Code of Ethics (the Code) on any ground. The Board considered that the advertisement did not portray or encourage any behaviour that is contrary to prevailing community standards on health and safety. The Board considered that the advertisement implied that Honda CRV drivers would enjoy driving along a rough road. The Board did not consider that the advertisement encouraged unsafe driving or seriously suggested that road maintenance is not important.

Further finding that the advertisement did not breach the Advertiser Code of Ethics on any ground, the Board dismissed the complaint.