



CASE REPORT

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| 1. Complaint reference number | 505/08 |
| 2. Advertiser | Toyota Motor Corp Aust Ltd |
| 3. Product | Vehicles |
| 4. Type of advertisement | Internet |
| 5. Nature of complaint | Violence Domestic violence – section 2.2
FCAI - Other |
| 6. Date of determination | Wednesday, 10 December 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This internet advertisement for Toyota's Kluger vehicle uses a continual scroll initially showing the vehicle with the words "Because you'll fill it with more than just stuff. Kluger it's a family thing." The scroll then goes on to show silhouetted children's figures sitting in the back of the car. The children begin to slap each other which escalates until a black outline representing a DVD player folds down from the roof and the fight stops until another child pops up from the back of the vehicle and hits the others on the head. The scroll ends with the words "DVD player as standard" and then goes back to the initial screen with a picture of the vehicle.

THE COMPLAINT

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

Portrayal of violence against children. Portrayal of violence to the head.

THE ADVERTISER'S RESPONSE

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

I refer to your email dated 25 November 2008 attaching a letter of complaint regarding the Toyota Kluger Online banner advertisement (Kluger Banner). An electronic copy of the Kluger Banner has been attached to this response.

Toyota Motor Corporation Australia Ltd (Toyota) takes its responsibility as an advertiser very seriously. We make extensive efforts to understand and respond appropriately to community concerns and issues. Over and above this, we have established our own stringent internal review and approval process, which includes obtaining legal advice.

Additionally, we adhere to the Commercials Acceptance Division (CAD) pre-approval process to ensure suitability before production begins as well as final approval classification before the commercial is aired. This is both a rigorous and robust process.

We have carefully considered the complaint made and do not agree with the concerns put forward by the complainant. Whilst we respect the right of personal opinion, we believe that this complaint does not accurately or fairly represent the content, tone or intention of the advertisement. It is Toyota's firm belief that the Kluger Banner does not breach the AANA Advertiser Code of Ethics (AANA Code), nor the FCAI Code of Practice for Motor Vehicle Advertising (FCAI Code).

From your email we note that the complaint you have received relates to a perceived breach of the

AANA Code (specifically Section 2). Notwithstanding this, you have also asked Toyota to respond to the Kluger Banner's compliance with the FCAI Code. Please find below our response to both issues.

Section 2 of the MNA Code:

The Kluger Banner depicts a typical 'slice of life' scenario in an illustration where two children are seated and safely strapped into a stationary vehicle. The two children like most everyday Australian kids begin to muck about by teasing each other with pokes, nudges and hand games. We then see the DVD appear to keep the children entertained; and occupied. A moment later another child (sibling) appears in the background and gives the two seated siblings a brotherly/sisterly 'last word' gentle swipe to end the argument.

The point of this banner was to emulate 'real life' scenarios that parents can relate to on a holiday road trip - kids mucking about in the back seat, with the older brother or sister who wants their annoying younger siblings to stop mucking about and sit still. The advertisement ran on sites targeted clearly at parents considering buying a new car to quickly connect with them via a situation they could relate to.

Toyota is fully supportive of the AANA Code of Ethics and deals with each of the AANA Code sections below.

"2.1 Advertisements shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief"

The Kluger Banner does not portray any of the situations identified in section 2.1.

"2.2 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised."

The alleged 'violence' portrayed in the advertisement is designed to represent everyday squabbling between young siblings in a family and to offer a solution to such situations on family road trips in an illustrated way, that gives a 'cartoonish' feel to the advertisement. The Kluger Banner is in no way intended to promote violence against children or violence to the head but rather the scenario was designed to be light-hearted and humorous in tone to appeal to parents who face the same situation daily with a family of two or more children.

We reiterate that in no way have we sought to promote violence to children or violence to the head and therefore do not believe the Kluger Banner does this in any way. We are disappointed that the advertisement has offended the complainant but believe for the reasons set out above, it does not breach section 2.2 of the AANA Code.

"2.3 Advertisements shall treat sex, sexuality and nudity with sensitivity to the relevant audience and where appropriate, the relevant programme time zone."

The Kluger Banner does not portray any sex, sexuality or nudity scenes.

"2.4 Advertisements which, having regard to the theme, visuals and language used, are directed primarily to children aged 14 years or younger and are for goods, services and facilities which are targeted towards and principal appeal to children, shall comply with the AANA's Code of Advertising to Children and section 2.6 of this Code shall not apply to advertisements to which AANA's Code of Advertising to Children applies."

The Kluger Banner was created to run on websites targeted at parents considering the purchase of a new car and to quickly connect with them via a situation they could relate to. The Kluger Banner was not targeted towards or to have principal appeal to children. In addition, the Kluger Banner is an advertisement for a motor vehicle, clearly not directed at children aged 14 years or younger, nor is it designed to appeal to this demographic.

"2.5 Advertisements shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided."

The Kluger Banner does not feature any inappropriate, strong or obscene language, nor is any

such language implied.

"2.6 Advertisements shall not depict material contrary to prevailing community standards on health and safety."

The Kluger Banner does not depict material contrary to any health and safety community standards. The Kluger Banner, as indicated, depicts a typical 'slice of life' scenario. The alleged 'violence' portrayed in the advertisement is designed to represent everyday squabbling between young siblings in a family and is in no way intended to promote violence against children or violence to the head.

"2.7 Advertisements for motor vehicles shall comply with the Federal Chamber of Automotive Industries Code of Practice relating to Advertising for Motor Vehicles and section 2.6 of this Code shall not apply to advertisements to which the Federal Chamber of Automotive Industries Code of Practice applies".

The Kluger Banner was compiled with the FCAI Code in mind and given the nature of the Kluger Banner, the Kluger Banner complies with the FCAI Code.

"2.8 Advertisements for food and beverage products shall comply with the AANA Food & Beverages Marketing Communications Code (once promulgated) as well as to the provisions of this Advertiser Code of Ethics."

The Kluger Banner does not feature any food or beverage products.

FCAI CODE CONSIDERATIONS

The FCAI Code acknowledges that advertisers may make legitimate use of humour in creative ways in advertising of motor vehicles as long as such executions do not contradict, circumvent or undermine the provisions of the FCAI Code. As is evident from the consideration of the AANA Code, the Kluger Banner was developed with the typical 'slice of life' scenario in mind with one of many aims creating a humorous depiction of family road trips. This message is reinforced throughout the Kluger brand advertising campaign which focuses on a range of humorous road trip scenarios. The Kluger Banner introduces humour and as will be indicated below, does not contradict, circumvent or undermine the provisions of the FCAI Code.

Clause 2 of the FCAI Code:

"Clause 2 of the FCAI Code requires that advertisers ensure that advertisements for motor vehicles not portray unsafe driving including speeding or other practices which would contravene road safety regulations, if they were to take place on a road or road-related area."

The Kluger Banner features two children seated and safely strapped into a stationary vehicle and is utilised on webpage's on the internet. As such no unsafe driving or speeding was depicted, nor is this type of conduct encouraged in any way.

Clause 3 of the FCAI Code:

"Clause 3 of the FCAI Code provides that advertisers may make use of scenes of motor sport, simulated motor sport, or vehicle testing or proving, provided that such scenes are clearly identifiable as part of an organized activity of a type which would normally be permitted in Australia and that they also conform to general safety requirements associated with such activities."

The Kluger Banner does not feature any motor sport activity.

Toyota believes that the advertisement in question falls within all the guidelines outlined by both the FCAI Code and the AANA Code and that while we appreciate the complainant's concern, we do not feel that the Kluger Banner breaches either code and therefore request that the Advertising Standards Board reject the complaint.

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 this is an advertisement for a motor vehicle and therefore the FCAI Code applies. The Board considered that the advertisement did not depict any unsafe driving or other driving practices or actions that would breach any section of the FCAI Code.

The Board then considered whether the advertisement breached Section 2.2 of the Code, relating to violence. The Board considered the depiction of the children fighting in the backseat was an ordinary everyday occurrence and not a depiction of violence. The Board considered the actions by a third character from the back row of seats at the end of the advertisement did not appear to be aggressive or serious contact and was also not a depiction of violence as understood by the ordinary community. The Board therefore found no breach of Section 2.2 of the Code.

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