



## **CASE REPORT**

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| 1. Complaint reference number | 506/08  |
| 2. Advertiser                 | Toyota Motor Corp Aust Ltd  |
| 3. Product                    | Vehicles  |
| 4. Type of advertisement      | TV  |
| 5. Nature of complaint        | Discrimination or vilification Race – section 2.1<br>Violence Other – section 2.2<br>FCAI - Other |
| 6. Date of determination      | Wednesday, 10 December 2008   |
| 7. DETERMINATION              | Dismissed   |

## **DESCRIPTION OF THE ADVERTISEMENT**

This television advertisement for Toyota's Hilux vehicle opens on a secluded island, with native warriors carrying spears and other weapons walking toward a vehicle. The warriors climb on the car and bounce it up and down until a coconut falls from a tree onto the vehicle and splits open. The warriors look at the coconut and cheer. They are then shown in several scenes pushing the vehicle into coconut trees to dislodge coconuts. In the final scene the vehicle is pushed off the highest point on the island and falls through a forest of coconut palms. The vehicle comes to rest on the beach with hundreds of coconuts spilling onto the vehicle and beach. The advertisement ends with the warriors jumping and cheering in their village near the vehicle as the words "New look Hilux unbreakable" appear on the screen.

## **THE COMPLAINT**

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

*I am deeply concerned about Toyota condoning a portrayal of dark skinned peoples from an oceanic/pacific region as naive, without sophisticated language, as unable to understand the nature or design purpose of a vehicle, worshipping coconuts etc. This campaign seems misguided given the current context - the Australian Government's apology to the Stolen Generations, Barak Obama's election, and the review of the Intervention. It appears disturbingly thoughtless to attempt to provoke humour through base stereotyping of communities who in Australia experience cultural disadvantage and who are committed to moving forward. I have recently worked with teachers and young indigenous people in Cairns schools. I am ashamed of this ad when I think of those young Islander men and women, their teachers and families working to raise the esteem of their young people and the status of their communities and cultures. A ute is a significant asset and highly valued in remote and regional communities. This ad consciously disregards the dignity of all Australians.*

## **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 HiLux 'Coconuts' television commercial (HiLux TVC).*

*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 our firm belief that the HiLux TVC 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 us to respond to the HiLux TVC's compliance with the FCAI Code.*

*Please find below our response to both issues.*

*Section 2 of the AANA Code:*

*"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."*

*Great care, respect and consideration were given in our depiction of the individuals featured throughout the HiLux TVC. We carefully selected the costumes used to avoid any suggestion we were stereotypically portraying any tribe or ethnic group.*

*The advertisement is clearly one of fantasy and, through our overall story telling, the individuals shown are never portrayed as naive, simple or unsophisticated.*

*In producing the HiLux TVC, we have obviously taken a large degree of creative licence, our intention for the setting being to create an impression of an undiscovered tropical island. Following on from this is the logical notion that these individuals have never before seen a motor vehicle and, as such, have no comprehension of its true nature or use. In reaction to the great discovery of the Toyota HiLux, the subsequent collective actions and expressions of the individuals, actually portray a heightened sense of ingenuity and intelligence given the initial impression. The individuals are shown to quickly identify the HiLux as a useful tool and are able to put it to great benefit immediately.*

*We reiterate that in no way have we sought to discriminate or vilify any person or section of the community and do not believe the HiLux TVC 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 2.1 of the AANA Code.*

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

*The HiLux TVC does not portray any violence.*

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

*The HiLux TVC does not portray any sex, sexuality or nudity scenes. In fact, great care was taken with selecting wardrobe to ensure there was no nudity depicted.*

*"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."*

*Given the HiLux TVC is an advertisement for a motor vehicle, it is 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 HiLux TVC 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 HiLux TVC does not depict material contrary to any health and safety community standards. Being a pure fantasy scenario, the advertisement does not encourage unsafe behaviour. It should also be noted that great care was taken on shoot to ensure the welfare and safety of our actors, under controlled filming conditions. Further, the vehicle was rigged and controlled at all times.*

*"2.7 Advertisements for motor vehicles shall comply with the Federal Chamber of Automotive Industries Code of Practice relating to Advertising for Motor Vehicle 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 HiLux NC was filmed in compliance with the FCAI Code. Please see our detailed comments below.*

*"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 HiLux TVC does not feature any food or beverage products.*

*Clause 2 of the FCAI Code:*

*"Cause 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 Toyota HiLux vehicle featured in the HiLux TVC was never driven at any time throughout the shoot (and therefore no unsafe driving or speeding was depicted), nor is this type of conduct encouraged in any way. The rolling of the HiLux vehicle was done in a pure fantasy context and, in our view, should be viewed as such.*

*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 be permitted in Australia and that they also conform to general safety requirements associated with such activities."*

*The HiLux TVC does not feature any motor sport activity.*

*In order to reinforce the 'unbreakable' nature of the Toyota HiLux, puffery and creative license has been used in communicating this message, none of which we believe contravenes the FCAI Code.*

## **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 noted that no driving of the vehicle is depicted in the advertisement and therefore concluded that there was no breach of Sections 2, 3 or 4 of the FCAI Code.

The Board then considered the application of the Code. The Board noted that Section 2.7 of the Code provides that Section 2.6, relating to health and safety, does not apply to advertisements to which the FCAI Code applies.

The Board considered the application of Section 2.2 of the Code, relating to violence, and Section 2.1, relating to discrimination and vilification.

The Board considered that the scenes depicting the vehicle being overturned and pushed down a mountainside were unrealistic and exaggerated in a "fantasy scenario" as noted by the advertiser in its response. The Board noted that the vehicle does not appear to sustain any damage as a result of any of those actions, in keeping with the "unbreakable" tagline. The Board therefore determined this was not a depiction of violence as understood by the general community and found no breach of Section 2.2 of the Code.

The Board considered whether the advertisement depicted discrimination or vilification against any section of the community in breach of Section 2.1. The Board agreed with the advertiser response that the depiction gave the impression of a generic undiscovered tropical island where the locals have clearly never seen a motor vehicle and innovatively find a useful purpose for it. The Board noted that the scenes shown in the advertisement are clearly aimed at demonstrating the vehicle's strength and that it is "unbreakable". The Board considered the advertisement was in bad taste, but did not consider that the depiction of the local island tribe members discriminated against or vilified any identifiable group on the basis of race. The Board also determined the advertisement did not discriminate against or vilify any section of the community on any other basis. The Board therefore found no breach of Section 2.1 of the Code.

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