



## **CASE REPORT**

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|-------------------------------|-----------------------------|
| 1. Complaint reference number | 526/08                      |
| 2. Advertiser                 | Lexus Australia             |
| 3. Product                    | Vehicles                    |
| 4. Type of advertisement      | Internet                    |
| 5. Nature of complaint        | FCAI - Speeding             |
| 6. Date of determination      | Wednesday, 17 December 2008 |
| 7. DETERMINATION              | Dismissed                   |

## **DESCRIPTION OF THE ADVERTISEMENT**

This internet advertisement from Lexus for its ISF vehicle begins with two glowing needles and the letter 'P'. The needles begin to move and the numbers 1 to 8 appear sequentially. As the number 8 appears a speedometer and tachometer also appear. As the speedometer reaches 260 a blue vehicle appears for a short time before white powdery explosion occurs and the vehicle disappears and the words "Who said we weren't exciting" appear before the last frame which shows a blue vehicle, the Lexus logo in the bottom right corner and the words "It's everything you thought we weren't" above the vehicle.

## **THE COMPLAINT**

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

*A dimly lit speedometer and tachometer needles fluctuate while a numerals count up from 1. the panel is illuminated revealing the speedometer and tachometer, the speed increasing upwards of 200 and then towards the limit (260km/h) as the add closes. The advertisement seems to imply that this automobile can be driven at speeds far above 110km/h. It indicates the major selling point of this product is its ability to be driven at high speeds illegal on any public road in Australia.*

## **THE ADVERTISER'S RESPONSE**

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

*The advertisement the subject of the complaint ran on the Internet only for the period 15th October 2008 through until 22nd November 2008.*

*The key concerns for the complainant are that the advertisement 'seems to imply that this automobile can be driven at speeds far above 110km/h' and that 'it indicates the major selling point of this product is its ability to be driven at high speeds illegal on any public road in Australia'.*

*We have carefully considered the complaint received by us and disagree with the arguments put forward.*

*We are always mindful of the FCAI Voluntary Code for Motor Vehicle Advertising (Code), and take great care to ensure we comply with the Code when creating Lexus advertisements.*

*In relation to clause 2(a) of the Code, this refers to 'unsafe driving' and gives examples of driving that would breach road rules. The advertisement does not show driving at all - it only shows the image of a speedometer. In relation to clause 2(b), which seeks to avoid the representation of*

*'people driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast', the advertisement does not actually show 'people driving' - it shows an image of a speedometer viewed in a conceptual way. It was certainly not Lexus Australia's intention to encourage or condone speeding in this advertisement.*

*We believe the nature of this advertisement is not about speed at all, rather the fact that this product (Lexus IS F) has a unique selling proposition with the world's first 8 speed automatic transmission in its category, and as a true 'performance vehicle'. This is the core premise of the advertisement and reflects this by demonstrating and focusing on the gear numbers in animation, rising from 1-8 as they appear on the dashboard. In addition, the speedometer is phased in slowly and only appears clearly in the final few seconds of the sequence, thereby reinforcing that the focus of the advertisement was the 8 speed automatic transmission.*

*In summary, it is our view that this advertisement does not show or depict a vehicle being driven dangerously, at high speeds. On the contrary, the online advertisement is clearly set in an animated, non-specific environment. There is no link made to actual road speed limits or dangerous conditions. The key takeout of the advertisement is intended to be the 8-speed transmission and the 'performance' capability of the IS-F.*

*We believe that the imagery portrayed is well within acceptable creative boundaries, and conforms with the Code.*

*We hope and trust that the response above satisfy concerns raised by the complainant and we respectfully request that the ASB dismiss this 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 noted the concerns of the complainant that the advertisement focused on the speed capacity of the vehicle and implied that the vehicle can be driven at speeds far in excess of the maximum Australian speed limit.

The Board considered the application of Section 2(a) of the FCAI Code, relating to unsafe driving, and Section 2(b), relating to excessive speed.

The Board noted that the advertisement depicts the dashboard of a vehicle followed by a quick shot of the back of the car, which then disappears. The Board noted that no actual driving is depicted in the advertisement. Accordingly, the Board determined that Section 2(a) did not apply to this advertisement.

The Board then considered Section 2(b) of the Code, which provides that advertisers should ensure that advertisements for motor vehicles do not portray "People driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast". The Board noted the advertiser response that the advertisement does not actually show "people driving", but shows an image of a speedometer viewed in a conceptual way. The Board agreed that this was the case. The Board also agreed with the advertiser response that the main focus of the advertisement was on the product's 8 speed automatic transmission. The Board considered that the viewers' attention was drawn to the numbers 1 to 8, rather than to the number on the speedometer, which comes into focus briefly towards the end of the advertisement. The Board therefore determined that the advertisement was not encouraging excessive speeding and found no breach of Section 2(b) of the FCAI Code.

While finding no breach of Section 2(b), the Board also noted that advertisers should be mindful of the Explanatory Notes to the FCAI Code, which state: "advertisers need to be mindful that excessive speed is a major cause of death and injury in road crashes and accordingly should avoid explicitly or implicitly drawing attention to the acceleration or speed capabilities of a vehicle" and "FCAI

acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles. However, such devices should not be used in any way to contradict, circumvent or undermine the provisions of the [FCAI] Code" and further "[a]dvertisers should avoid references to the speed or acceleration capabilities of a motor vehicle". The Board noted that, if the focus of the advertisement had not been clearly on the 8 speed transmission rather than the speedometer, the Board would have found that the advertisement contravened the FCAI Code.

The Board found no breach of any other Section of the FCAI Code.

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