

CASE REPORT

1. Complaint reference number	58/09
2. Advertiser	Mitsubishi Motors Aust Ltd
3. Product	Vehicles
4. Type of advertisement	TV
5. Nature of complaint	FCAI - Other
6. Date of determination	Wednesday, 11 February 2009
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for Mitsubishi's Pajero vehicle opens in an office with people working at desks who are sprayed by water. The advertisement cuts to a vehicle driving through a water crossing. The next scene is in a traffic jam and a man looks out of his car window and is sprayed by mud. The advertisement cuts to a vehicle driving through mud. The next scene is in a television studio and the presenters are suddenly covered with dust. The advertisement cuts to a vehicle driving on a dusty plain. A voice over then says: "Leave it all behind" and describes the features of the vehicle. The advertisement ends with a hand polishing the Mitsubishi logo on the front of the vehicle and a voice over says: "Love that Pajero, love that car".

THE COMPLAINT

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

As a responsible four wheel drive owner who is experienced in off road driving the ad reinforces an all too common but certainly inaccurate perception that the person in the ad represents all four wheel drive vehicle drivers. The advertisement could also be construed as an incitement to break the South Australian "Anti-hoon" legislation.

THE ADVERTISER'S RESPONSE

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

The complainant's description of the TVC, including in particular the driving actually depicted, is entirely wrong. The TVC does not at any time depict the Pajero 'driving ... through water, dust and mud at reckless speed and depositing water dust and mud on innocent bystanders'. In addition to there being no factual basis for the complaint, there is on any fair viewing no basis whatsoever for the message that the complaint asserts is to be derived from the TVC. Rather, what is actually depicted in the TVC and the message it conveys have been (at least) misinterpreted or (less generously) purposely distorted in order to assert that the TVC is reinforcing a perception that all 4WD owners are 'hoons'. MMAI submits that the TVC conforms to both the AANA Code of Ethics and the FCAI Code. The complaint should be dismissed.

2.2 Compliance with the AANA and FCAI Codes

The intention of the TVC is to humorously reflect the desire in all Australians to get away from the daily grind and get out and see our great country. It seeks to illustrate the outstanding 4WD attributes, accessories and comfort and of the new Pajero that enable purchasers to do that. The TVC achieves this by juxtaposing imagery of off road driving with images depicting the mundane daily reality of, for example, slaving away at the office or being stuck in a traffic jam. The

connection between the two and the message that the daily grind should be left behind by going bush in the exciting new Pajero is made by the fanciful depiction of extraneous off road conditions (such dust, water and mud) impacting people going about their daily grind.

Importantly:

(a) there is no on road driving depicted.

(b) the vehicle's off road capabilities are demonstrated through showing the vehicle driving through water, mud and then over sand. The driving is controlled and obviously at an appropriate (usually low) speed.

Our depiction of the off road capabilities of our vehicle does not portray any driving that would breach any law of any Australian jurisdiction. The complainant also specifically refers to the TVC being construed as an incitement to break South Australian Anti-Hoon legislation. With respect, that is not only an improper construction of the TVC but also incorrect reference to the law. The South Australian Anti-Hoon legislation creates tougher penalties for acts that were already offences in that State, but it does not create new offences. More importantly though, as already noted all driving depicted in the TVC complies with the relevant road traffic legislation. In short, we were careful to ensure that notwithstanding the use of fantasy, humour and self-evident exaggeration, we complied with paragraphs 2(c) and 4 of the FCAI Code, thus meeting the requirement in section 2.7 of the AANA Code. For completeness, we consider the TVC to comply with paragraphs 2(a), 2(b), 2(d), 2(e) and 3 of the FCAI Code and other sections of the AANA Code.

3. SUMMARY

MMAL and its agency Clemenger BBDO have taken every care in producing the TVC in order to ensure that it complies strictly with the AANA and FCAI Codes. We have succeeded in ensuring that all driving depicted is controlled and does not portray any driving practice that would contravene any law of any State or Territory.

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 was a commercial television version of an advertisement also screened on pay television and considered as Case Reference Number 42/09.

The board noted the complainants' concerns about the nature of the driving depicted in the advertisement and considered whether there had been any breach of Sections 2 and 4 of the FCAI Code.

The Board noted the advertiser response that the advertisement depicts a fantasy scenario juxtaposing imagery of off-road driving with daily life and that at no time is the vehicle seen leaving a carriageway to avoid traffic and splashing other drivers with mud, water and dust.

The Board agreed that no on-road driving is depicted in the advertisement. The Board noted that the scenes of traffic at a stand-still, along with the scenes of newsreaders and office staff, merely represented the ;°daily grind;± as suggested by the advertiser and did not actually form any part of the driving action. The splashes of mud, water and dust were fantasy elements to illustrate the escapist nature of the driving experience away from daily life.

The Board considered that the off-road driving depicted was compliant with Section 4 of the FCAI Code, relating to depictions of off-road vehicles. The Board also considered there was no depiction of driving practices in contravention of Section 2 or any other section of the FCAI Code.

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