



CASE REPORT

1. Complaint reference number	83/06
2. Advertiser	Nissan Motor Co (Aust) Pty Ltd (Murano)
3. Product	Vehicles
4. Type of advertisement	TV
5. Nature of complaint	Other - Environmental issues
6. Date of determination	Tuesday, 14 March 2006
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows a man standing in his driveway hosing down his mud-caked 4WD, revealing a gleaming new Nissan Murano. As he puts his golf clubs in the boot, his wife strides out of the house and smiles cheekily as she hops into the Murano and drives off to the city – leaving him bemused. Voiceover throughout includes statements such as “Even with its tough 4WD heritage, Nissan believes there’s one frontier no one has ever really conquered. And that’s all those people who thought they’d never drive a 4WD in the city.....it makes city driving a whole new experience.”

THE COMPLAINT

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

...entirely inappropriate for....Stage 3 water restrictions that prohibit the use of hoses on hard surfaces inc. cars

It is against the LAW (complainant’s emphasis).

...people might see this as a relaxation of the water restrictions...extremely frivolous and irresponsible in a time of water shortages.

The current Sydney water restrictions allow only for washing of cars by hand with a bucket.....it is illegal and punishable with an on the spot fine, to wash a motor vehicle with a hand held hose.

...advertisers should be setting a good example for society, especially in terms of environmental damage.

THE ADVERTISER’S RESPONSE

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

...it can be seen that this hose is connected to a rain water tank. The activity in question therefore adheres entirely to current water restrictions imposed in NSW and Queensland .

The use of water from a rainwater tank to wash a vehicle by means of a hose with a trigger nozzle results in the TVC complying entirely with all relevant environmental regulations and prevailing community standards...

THE DETERMINATION

The Advertising Standards Board (“Board”) first considered this advertisement under 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 Nissan Murano "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 Nissan Murano 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 Board firstly noted that the complaints in this matter were not specifically made under the FCAI Code but did complain about a number of driving practices portrayed in the advertisement.

The Board noted that it was not able to uphold a complaint unless there has been a breach of the formal provisions of the FCAI Code. The Board considered the clauses of the FCAI Code relevant to this advertisement and noted that the Code targets express and implied messages.

The Board noted that the advertisement did not contain any depictions of driving or driving behaviour and on this basis decided that there was no contravention of the FCAI Code.

The Board then considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted that the advertisement does include depictions of a rainwater tank and of the fact that the man is using rainwater tank to wash his car. The Board considered that the use of rain water to clean a car was not a depiction of material contrary to community standards on health and safety, specifically environmental care.

Further finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaint.