



CASE REPORT

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| 1. Complaint reference number | 83/07 |
| 2. Advertiser | Mazda Australia Pty Ltd (Mazda 3 MPS) |
| 3. Product | Vehicles |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | FCAI - Driving practice that would breach the law
FCAI - Speeding |
| 6. Date of determination | Tuesday, 10 April 2007 |
| 7. DETERMINATION | Upheld – discontinued or modified |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a red Mazda driving on a country road past trees, over crests and around corners. The car seems to have a red tail flying from its rear but is only able to be identified as a "devil's tail" when the car finally stops in an underground car park. A male voiceover concludes, "The turbo powered, 190 kilowatt Mazda 3 MPS. It's got a bit of a mean streak" as the "tail" disappears behind the car.

THE COMPLAINT

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

It depicts the devil and is extremely evil.

It's against the Code to show vehicles being driven at speed or dangerously.

THE ADVERTISER'S RESPONSE

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

Before I address their concerns, let me put this TVC into a 'story' context. The Mazda3 MPS is a 'high performance' derivative of the very popular Mazda3 range which is in fact the second largest selling model in the Small Car VFACTS market segment. Mazda3 has been on sale since January 2004, while the MPS variant was launched in mid 2006 at the same time we launched a facelift to the normal Mazda3. This TVC needed to promote the Mazda3 MPS as a new model derivative based on its high performance credentials. It has a higher power engine and also more standard safety equipment than the 'normal' models.

The TVC does this by showing the car in motion both driving slowly when leaving the home garage and when entering the multi-level car park at the end, and driving faster when out on the open highway. At all times the car is being driven responsibly. The energy in the TVC, which appears to be causing the concern, is added by the pace of the music and the quick edits of the tracking footage.

To indicate that this car does have a high performance powertrain, we have used the device of a Devil's tail' and the voice over says "The turbo powered, 190 kilowatt Mazda3 MPS. It's got a bit of a mean streak." The devil's tail device is a bit cheeky and is designed to simply emphasize the essential product attribute of this car.

As explained above, the car travels slowly in the two situations required, i.e. exiting the home garage and entering the car park, and is driven at highway speeds on the highway sections. If you

take a close look at the cornering segments in the highway driving, the car is obviously not being driven dangerously and it is sitting very flat with no extreme body roll that would occur if the car was being driven 'at the edge'.

There is certainly a sense of energy in the way the tracking footage is cut, but this in no way should be confused with what the car is actually doing.

In fact, we paid particular attention to the driving in the car park to ensure it was at a reasonable pace given the advertising code and our previous ASB experience with a TVC for one of our cars a number of years back where a 'ramping' effect in the edit gave the impression of speed where there was none.

(A complainant) is offended by the use of the devil's tail as a symbol which "depicts the devil and is extremely evil". I don't think our use of the tail has that connotation, and I doubt you could support the extrapolation that this complainant's dislike of the symbol is shared by the general community in this context.

THE DETERMINATION

The Advertising Standards Board ("Board") was required to determine whether the material before it was in breach of the Federal Chamber of Automotive Industries' Advertising for Motor Vehicles Voluntary Code of Practice (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 then analysed specific sections of the FCAI Code and their application to the advertisement. The Board identified that clause 2(a), was relevant in the circumstances. The Board had to consider whether that clause of the Code had been breached.

The Board first rejected any notion that complaints about the animated devil's tail on the car were material in consideration of the advertisement.

The Board viewed the advertisement several times and noted the images of the car driving very fast, particularly cornering hard on a winding road, in the first half of the advertisement. The Board found that the fast driving and hard cornering featured in the advertisement, and the fast-moving nature of editing, portrayed excessive speed and reckless, dangerous driving. Hence the Board found, on balance, that the advertisement breached Section 2(a) of the FCAI Code.

Finding that the advertisement breached the Code, the Board upheld the complaint.

ADVERTISER'S RESPONSE TO DETERMINATION

As we explained in our submission to the Board, all of the energy and 'fast' driving takes place in highway conditions where the speed limit is at least 100kph. There is absolutely no way the car is driving at excessive speed (greater than legal limits) nor in a reckless manner. In fact, I actually drew the Board's attention to a particular cornering segment where the aspect of the car proved that the car was being driven in a safe and acceptable manner.

Apparently adding energy and excitement through editing, for those people that love driving, is now something we are no longer allowed to portray in our advertising... I can assure you that Mazda takes its responsibilities under the code very seriously, but we refuse to be brow beaten so that any display of excitement or energy in a car driving situation is somehow related to speed or recklessness. We are fully aware that our 'Zoom-Zoom' advertising does not appeal to all viewers, but that does not automatically equate to a breach of the voluntary automotive advertising code.

On the matter of whether MA will modify or discontinue its use of this 'Devil's Tail' Mazda3 MPS TVC, we already have new material on air for our performance range of cars (including Mazda3 MPS), and this was part of our normal change of creative material and bears absolutely no relationship to this decision by the ASB. While we have no plans to re-use Devil's Tail on FTA or PAY TV in the foreseeable future, we reserve the right to use it in other suitable venues and occasions as we see fit.

If the ASB plan to publish any part of their ruling either on line or through any press release, Mazda would want our response and comments fully included to illustrate our dissatisfaction with this decision.