



Case Report

1	Case Number	0098/15
2	Advertiser	Holden Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	25/03/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving
FCAI Motor Vehicles 2(c) Driving practice that would breach the law
- Other Social Values
2.5 - Language Inappropriate language
2.6 - Health and Safety Motor vehicle related
2.6 - Health and Safety Unsafe behaviour

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement in question depicts a Colorado 7 towing a caravan and being driven through various 4WD terrains, including dirt roads and shallow water river crossing. The Advertisement features a father and son enjoying this drive together. The son is seated in the back seat. The vehicle overtakes a slow-moving vehicle towing another caravan. The driver says "Bloody Caravaners" and his son imitates his father saying "Bloody Caravaners."

THE COMPLAINT

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

I'm offended by the use of swearing in the ad by the parent which is then repeated by the young child.

Why is it acceptable or humorous to hear kids swearing? It's not.

My main concern was the manner in which the vehicle towing the caravan was driven:

1. Excessive speed through water
2. Excessive speed at intersection and turning the corner
3. Passing another on a hill

This sends a poor message to drivers and puts caravan owners in a poor light. I believe that this ad in its current format is very irresponsible.

Object to encouragement of road abuse.

I find it offensive to advertise using a young child in this way swearing just to sell a car and that the parent seems ok with his young son using poor / bad language. This sets a very poor standard.

This ad is wrong on many levels including berating drivers who are being cautious, promoting a form of road rage that could cause drivers to overtake slower vehicles too soon while encouraging children to be intolerant.

The language is offensive. The father says "bloody Caravans" and the little boy repeats the same phrase. The term "bloody" is offensive but even more offensive with a child saying that word in that context. This is swearing.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

GM Holden takes its legal responsibilities under the Competition and Consumer Act seriously, as well as the provisions of the AANA Advertiser Code of Ethics and the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising.

The Advertisement

The Advertisement in question depicts the Colorado 7 towing a caravan and being driven through various 4WD terrains, including dirt roads and shallow water river crossing. The Advertisement features a father and son enjoying this drive together. The son is seated in the back seat in a child restraint as appropriate for his age.

The Colorado 7 then turns off the 4WD terrain and onto a country highway before getting stuck behind a slow-moving vehicle towing another caravan. The driver then with a smile on his face says "Bloody Caravaners", in a tongue-in-cheek manner as he is clearly aware that he too is a "Caravaner". The Colorado 7 then safely overtakes the slower moving vehicle, with no oncoming traffic, on a dotted-line section of a long stretch of road with very good visibility and in very good driving conditions and otherwise obeying all road rules. At this point, the son in the back seat imitates his father saying "Bloody Caravaners" in a way that is known to most parents.

The concerns raised in relation to the Advertisement predominantly relate to the use of the phrase “Bloody Caravaners” by father and son, but also the manner in which the vehicle is being driven, both on the 4WD terrain and on the highway.

It is worth noting that this Advertisement was given a ‘PG’ rating and is therefore only shown on TV outside of the following times:

- Weekday – 6am to 8:30am and 4pm to 7pm*
- Weekends - 6am to 10am*

An alternative edit for the Advertisement, which removes the word “Bloody” was given a ‘G’ rating and is shown in the above mentioned times.

Relevant legislation and regulations

The complaints can generally be placed into two broad categories, the use of the word ‘bloody’ and the driving of the vehicle including ‘off-road’ driving. We will first address the driving issues raised and then respond to the complaints regarding use of the word ‘Bloody’

1. Complaints relating to the driving of the vehicle:

The relevant laws and standards relating to driving generally and off-road driving and four wheel drive vehicles are as follows:

1 FCAI Code of Practice for Motor Vehicle Advertising (Code); and

2 Relevant road safety rules (Road Rules).

Clause 2 of the Code requires that advertisers ensure that advertisements for motor vehicles do not portray, amongst other things, unsafe driving or driving that results in deliberate and significant environmental damage.

Clause 4 of the Code provides that advertisers may legitimately depict the capabilities and performance of off road vehicles travelling over loose or unsealed surfaces, or uneven terrain, provided that such scenes do not portray unsafe driving and vehicles must not travel at a speed which would contravene the laws of the State or Territory in which the advertisement is published, were such driving to occur on a road or road related area.

In applying Clauses 2 and 4 of the Code to the Advertisement, we note the following:

a. During the filming of the Advertisement:

- i. All driving was within legal speed limits and compliant with applicable Road Rules;*
- ii. When overtaking, it was depicted with a clearly open stretch of road, with good visibility, and compliant with all applicable road rules;*
- iii. driving through the shallow river crossing was controlled and completed at a speed commensurate with a safe river crossing;*

iv. driving through the shallow river crossing resulted in no terrain damage, the river bed was rocky and stirring of silt was short lived and cleared quickly due to normal water flow; and

v. great care was taken to adopt a 'tread lightly' approach and ensure that there was no track degradation above and beyond the normal passage of 4WD vehicles.

b. The Holden Colorado 7 meets the requirements for classification as an off-road vehicle under the ADRs (MC Category). In particular, the Holden Colorado 7 has:

i. 7 seating positions;

ii. four wheel drive capabilities;

iii. at least 4 of the 5 characteristics required pursuant to the definition of 'Off-Road Passenger Vehicle (MC)' as described under the ADR; and

c. The driving practices adopted during the filming of the advertisement were primarily aimed at legitimately displaying the capabilities and performance of the Holden Colorado 7 as an off-road vehicle and its strong towing credentials.

Holden believes that the Advertisement is in full compliance with the Code and the Road Rules. The driving practices adopted were, in Holden's view, at all times conducted in a safe and controlled manner, do not depict any anger towards other road users or encourage anything other than safe driving practices.

2. Complaints relating to the use of the phrase 'Bloody Caravaners' in advertising:

The relevant laws and standards relating to advertising and the use of the phrase 'Bloody Caravaners' includes the following:

1 FCAI Code of Practice for Motor Vehicle Advertising (Code); and

2 AANA Advertiser Code of Ethics (Ethics).

Clause 2 of the Code requires that advertisers ensure that advertisements for motor vehicles do not portray, amongst other things, unsafe driving, including reckless and menacing driving that would breach any Commonwealth law or the law of any State or Territory.

Clause 2 of the Ethics, and in particular clause 2.5, requires advertising or marketing communications only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

In applying Clause 2 of the Code and Clause 2.5 of the Ethics, we note the following:

a. As noted above, at all times the driving depicted complied with all relevant road laws and at no time, in Holden's view, could the driving be described as menacing, unsafe or reckless. We otherwise refer to and repeat the matters set out above in paragraphs 1 a, b and c above

as they relate to the driving of the vehicle.

b. The use of the phrase 'Bloody Caravaners' in the Advertisement is, in Holden's view appropriate in the circumstances.

i. The Advertisement consists of two versions, one version contains the phrase 'Bloody Caravaners' and the other without use of this phrase. The version containing the relevant phrase is only shown on TV outside of the following times:

- Weekday – 6am to 8:30am and 4pm to 7pm*
- Weekends - 6am to 10am*

ii. Based on the above restricted viewing, Holden considers that the Advertisement is appropriate in the circumstances when considering the relevant audience and medium.

iii. Holden's use of the word 'Bloody' in the Advertisement is consistent, in Holden's view, with it being the great Australian adjective, which has formed a part of the Australian language for a significant part of our history. It may even be described as quintessentially Australian. This is also demonstrated by the previous use of the word 'bloody' in national Television advertising campaigns.

Holden do not consider that the use of the phrase 'bloody caravaners' can be described as strong or obscene in contravention of the Ethics, particularly in light of the restricted viewing described above. Rather, Holden considers that the use of the word 'bloody' is a light-hearted, humorous play on the stereotypical characteristics of Australia such as 'cheekiness' or 'informality' and that most television audiences who view the Advertisement will understand its humour and enjoy the Advertisement.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches the Federal Chamber of Automotive Industries Advertising for Motor Vehicles Voluntary Code of Practice (the FCAI Code) and Section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted the complainant's concern that the advertisement shows unsafe driving behaviour and in addition uses inappropriate language by and adult and a child.

The Board first analysed specific sections of the FCAI Code and their application to the advertisement.

The Board considered clause 2(a) of the FCAI Code. Clause 2(a) requires that: 'Advertisements for motor vehicles do not portray ...unsafe driving, including reckless or menacing driving that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast dealing with road safety or traffic regulation, if such driving were to occur on a road or road-related area, regardless of where the driving is depicted in the advertisement.'

The Board noted the examples given in the FCAI Code include: ‘Vehicles travelling at excessive speed; sudden, extreme and unnecessary changes in direction and speed of a motor vehicle...or the apparent and deliberate loss of control of a moving motor vehicle.’

The Board noted the advertisement is promoting Colorado 7 towing a caravan and being driven through various 4WD terrains, including dirt roads and shallow water river crossing. The Advertisement features a father and son enjoying this drive together. The son is seated in the back seat in a child restraint.

The Board noted the scenes in particular where the vehicle is being driven through a shallow river crossing and along a dirt road. The Board noted that we do not see what speeds the vehicles are being driven at and considered that the vehicles do not appear to be travelling at excessive speed for the environment and conditions portrayed.

The Board noted that child and the father smile at the point where the terrain gets rough but agreed that this was because the surface became bumpy and was more exciting than the previous flat and smooth roads seen driven on.

The Board then noted the scene of the vehicle driving on the sealed roads and noted that when the vehicle overtakes the other caravan, the road is marked with a broken line and the driver clearly indicates his intentions.

In the Board’s view the vehicle is being driven in a safe and controlled manner for the environment that it is driving in and did not depict unsafe driving and did not breach clause 2 (a) of the FCAI Code.

The Board then considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided”.

The Board noted the advertisers response that there are two versions, one version contains the phrase ‘Bloody Caravaners’ (given a PG rating from CAD) and the other without use of this phrase (given a G rating from CAD). The version containing the relevant phrase is only broadcast during the relevant times for the rating.

The Board considered that the use of the word ‘bloody’ is a colloquial term used express frustration or to emphasize what is being said. The Board noted that it had previously dismissed several advertisements where the term ‘bloody’ is referred including 0433/07, 0375/03 and 0091/06.

Consistent with the decisions above, the Board considered that the use of the word bloody in this advertisement is not aggressive and is light-hearted and ironic considering the man is towing a caravan himself.

The Board noted the complainants concerns in particular that the young boy copies his father and uses the word ‘bloody’ himself. The Board agreed that the overall tone of the advertisement was highlighting a camping trip and time spent with a father and son and that the son copying his father in this instance was not abusive or angry and that the father is not

condoning or encouraging the child to swear or to use inappropriate language toward other drivers.

The Board considered that the advertisement did not use language which is appropriate in the circumstances particularly considering the PG rating and did not breach section 2.5 of the Code.

Finding that the advertisement did not breach the FCAI Code or the Code of Ethics on any other grounds, the Board dismissed the complaint.