

COMPLAINT NUMBER	17/260
COMPLAINANT	M Walters
ADVERTISER	LDV Vans
ADVERTISEMENT	LDV Vans, Digital
DATE OF MEETING	12 September 2017
OUTCOME	Not Upheld

SUMMARY

The LDV digital website advertisement for the LDV G10 Van promoted its features, space, power, performance and safety. It stated safety was a priority in the van, in its chassis, its EPS and many other active and passive safety features. The advertisement said: "When you consider that pedestrian safety hasn't been forgotten either... it's clear the GT Van takes safety seriously."

The Complainant was concerned that the LDV website advertisement claimed safety was a priority for the LDV G10 Van but the van was given a poor 3-star safety rating under the ANCAP Australian safety ratings system. The Complainant's belief was that the ANCAP rating made the statements on the LDV website very misleading around the G10 taking safety seriously.

The Complaints Board said the LDV G10 van did have safety features and the Advertiser had provided additional information about its recent ANCAP rating. It considered a 3-star ANCAP rating did not mean the Advertiser did not take safety seriously. The Complaints Board observed vehicle did not have to have an ANCAP rating and the Advertiser was under no obligation to include ANCAP information on its website. The Advertiser had confirmed that all vehicles sold and registered by LDV New Zealand held the required Statements of Compliance from NZTA.

The Complaints Board ruled to Not Uphold the complaint.

[No further action required]

Please note this headnote does not form part of the Decision.

COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the advertisement with reference to Basic Principle 4 and Rule 2 of the Code of Ethics. This required the Complaints Board to consider whether the advertisement had been prepared with a due sense of social responsibility to consumers and to society and whether it contained any statement or visual presentation or created an overall impression which directly or by implication, omission, ambiguity or exaggerated claim was misleading or deceptive, was likely to deceive or mislead the consumer, made false and misleading representation, abused the trust of the

consumer or exploited their lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

The Complaints Board ruled to Not Uphold the complaint.

The Complaint

The Complainant said the claim on the website that safety was a priority in the G10 Van was contradicted by the vehicle's low ANCAP consumer rating.

The Complainant quoted the website advertisement:

“Safety is a priority in the G10 Van whether it's the robust calibrated chassis, the ESP safety system by Bosch or the many other active and passive safety features. These include Anti-skid brakes (ABS), Electronic brake force distribution (EBD) and Emergency brake assist (ABS) all coming together to ensure braking is optimal for any driving situation.

“The G10 Van also comes with both driver and passenger airbags, rear fog lamps and a tyre pressure monitoring system.

“When you consider that pedestrian safety hasn't been forgotten either, with the G10 offering both a rear camera with park assist and parking sensors, its clear the G10 Van takes safety seriously.”

The Complainant said ANCAP, though, gave the van a low 3-star safety rating and reported there were “a number of serious concerns with the G10's structural performance with the driver foot-well rupturing and excessive pedal movement. Steering column and dash components were also a potential source of knee injury for the driver and passenger.”

The Complainant said it was clear ANCAP had serious issues with the safety of the G10 Van. The Complainant said in part: “This would then contradict and make the statements on the LDV website very misleading around the G10 'taking safety seriously.' I believe this leaves the consumer with the impression that the G10 is a safe van and uneducated buyers may not be able to locate the ANCAP safety information as the LVD do not advertise this on their website.”

The Advertiser's response

The Advertiser, Great Lake Motor Distributors Ltd, submitted it was important to analyse the crash test result data leading to the disappointing 3-star ANCAP safety rating. The Advertiser said in part: “What the ANCAP crash data shows is the G10 received a total score of 25.4 points. This is important to note as the current threshold for a four-star rating is 24.5 points, which the LDV G10 clearly exceeded. The ANCAP test regime parameters have recently been updated, to achieve 4-star rating a vehicle must also have side airbags. G10 does not currently have side airbags, and neither do the current HiAce (4-star tested in 2006), Hyundai iLoad (tested in 2009) or most other vans that are in this vehicle segment. ANCAP have reduced the score of the G10 to 24.49, when it actually achieved a high enough score to gain the 4-star rating.”

The Advertiser submitted the LDV G10 had performed better in various aspects than the Toyota HiAce which represented 40 percent of the total van market but was able to claim a four-star rating from 2006. The Advertiser's view was that if market-leading Toyota and Hyundai vans were tested to the same 2017 standard as the LDV G10, the LDV G10 would out-perform them or achieve the same rating.

The Advertiser said that ANCAP was an “independent consumer rating for-profit organisation” and vehicle manufacturers were under no legal or regulatory obligation to display or use ANCAP ratings in marketing. All vehicles sold and registered by LDV New Zealand held the required Statements of Compliance which were required and audited by the New Zealand Transport Authority.

The Advertiser noted that most buyers of the LDV G10 were considering or coming from a used Japanese import. The Advertiser commented: "These Japanese imports are typically "forward control vans with no bonnet/frontal impact protection, ESP and in some cases no ABS. The G10 is clearly a much safer option than these vans."

The Advertiser said they "fully stand behind ... the statements relating to safety found on our website and in the vehicle point of sale brochure."

Possible precedent

To assist in coming to its decision the Complaints Board reviewed a precedent decision: 16/187, which concerned two advertisements.

The Complaints Board Upheld the complaint concerning the first advertisement which was for the 2016 SsangYong Actyon Sport Ute and claimed it had a 4-star Korean safety rating. The Complaints Board said no substantiation had been provided to support the claim of a 4-star KNCAP rating and the advertisement was likely to mislead consumers.

The complaint concerning the second advertisement for the SsangYong Tivoli was Not Upheld. This television advertisement suggested the vehicle had "5-star safety" and the Complainant said it was unclear it was a 5-star KNCAP rating, not an ANCAP rating. The majority of the Complaints Board said a reference to the rating being KNCAP would have been beneficial to consumers but the claim was substantiated and was not misleading.

The Complaints Board also noted the Advertiser's response to these complaints stated in part:

"To clarify, under NZ law, vehicles must comply with all standards defined in the suite of NZ Land Transport Rules. For light vehicles, there are 21 different Rules (regulations) that vehicle must comply with. The New Zealand Transport Agency (NZTA) oversees the approval process and each distributor has statutory responsibilities to report to the NZTA against these standards. Each distributor must, prior to a vehicle being first sold, undertake a pre-delivery inspection of every vehicle to validate the vehicle complies with the Rules and standards set under Rules.

As such all LDV and SsangYong vehicles comply with NZ's standards as can be shown in the company's statement of compliance. The above process should not be confused with ANCAP ratings. ANCAP (or other new car assessment ratings such as Euro-NCAP, JNCAP etc) are not required under NZ law (or under the laws of other countries). These are a consumer test to rate the relative performance of car in a stimulated crash test...But they are not key to or essential in determining a vehicles safety for use of NZ roads. These are determined by NZ legislation and the Land Transport Rules pursuant to our legislation."

The Complaints Board discussion

The Complaints Board considered the advertisement's claims concerning the safety of the van. The Complaints Board accepted the Advertiser's submission the ANCAP test regime parameters had recently been updated and this had impacted on its overall rating. It noted the Advertiser's view if market-leading Toyota and Hyundai vans were tested to the same 2017 standard as the LDV G10 Van, they believed the LDV G10 would out-perform them or achieve the same rating.

The Complaints Board said the statements about the Advertiser's position on vehicle safety for the G10 van were supported by the Advertiser's response. The LDV G10 Van did have safety features detailed in the advertisement for consumers to decide whether they were sufficient for their requirements.

The Complaints Board also took into account information provided by the Advertiser regarding the role of the ANCAP rating in relation to vehicles on New Zealand roads. Its response stated "ANCAP was an "independent consumer rating for-profit organisation" and vehicle manufacturers were under no legal or regulatory obligation to display or use ANCAP ratings in marketing. All vehicles sold and registered by LDV New Zealand held the required Statements of Compliance which were required and audited by the New Zealand Transport Authority."

The Complaints Board said the LDV G10 van did have safety features and the Advertiser had provided additional information about its recent ANCAP rating. The Complaints Board considered a 3-star ANCAP rating did not automatically mean the Advertiser did not take safety seriously.

The Complaints Board said the advertisement for the LDV G10 Van was not misleading. The Complaints Board concluded the advertisement did not breach Basic Principle 4 or Rule 2 of the Code of Ethics.

Accordingly, the Complaints Board ruled to Not Uphold the complaint.

Decision: Complaint **Not Upheld**

DESCRIPTION OF ADVERTISEMENT

The LDV website digital advertisement (www.ldv.co.nz/model-showroom/g10-cargo-van) for the LDV G10 Van pictured a white van and set out a range of prices. A section on safety in the advertisement said: "Safety is a priority in the G10 Van whether it's the robust calibrated chassis, the ESP safety system by Bosch or the many other active and passive safety features. These include Anti-skid brakes (ABS), Electronic brake force distribution (EBD) and Emergency brake assist (EBA) all coming together to ensure braking is optimal for any driving situation.

"The G10 Van also comes with both driver and passenger airbags, rear fog lamps and a tyre pressure monitoring system.

"When you consider that pedestrian safety hasn't been forgotten either, with the G10 offering both a rear camera with park assist and parking sensors, it's clear the G10 Van takes safety seriously."

COMPLAINT FROM M WALTERS

Please refer to the page below on the LDV website:<http://www.ldv.co.nz/model-showroom/g10-cargo-van>

"Safety is a priority in the G10 Van whether it's the robust Lotus calibrated chassis, the ESP safety system by Bosch or the many other active and passive safety features. These include Anti-skid brakes (ABS), Electronic brake force distribution (EBD) and Emergency brake assist (EBA) all coming together to ensure braking is optimal for any driving situation.

On top of that, the G10 Van has Electronic stability control (ESC) with Roll movement intervention (RMI).

The G10 Van also comes with both driver and passenger airbags, rear fog lamps and a tyre pressure monitoring system.

When you consider that pedestrian safety hasn't been forgotten either, with the G10 offering both a rear camera with park assist and parking sensors, it's clear the G10 Van takes safety seriously."

Then please review the recent release from ANCAP regarding the poor safety rating on the LDV G10 cargo van;

<http://autotalk.co.nz/news/chinese-ldv-g10-lowly-three-star-safety-rating>

A direct quote from the article;

"“There were a number of serious concerns with the G10’s structural performance with the driver foot-well rupturing and excessive pedal movement. Steering column and dash components were also a potential source of knee injury for the driver and passenger,” "

From the release above it is clear that ANCAP have clear issues with the safety of the G10 van and have labelled these concerns as 'serious'.

This would then contradict and make the statements on the LDV website very misleading around the G10 'taking safety seriously'. I believe this leaves the consumer with the impression that the G10 is a safe van and uneducated buyers may not be able to locate the ANCAP safety information as LDV do not advertise this on their website.

The same issue is also seen here;

<http://www.ldv.co.nz/model-showroom/g10-people-mover>

CODE OF ETHICS

Basic Principle 4: All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

Rule 2 Truthful Presentation: Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

RESPONSE FROM ADVERTISER: - GREAT LAKE MOTOR DISTRIBUTORS LTD

In the report following, I will cover:

- ANCAP’s G10 recent test result – specifically the scoring and how it relates to the other vans in this market segment.
- ANCAP being a consumer rating guide
- LDV G10’s safety specifications
- The van market for this model

LDV Internationally (Produced by global automaker SAIC Motor) and LDV Locally, fully stand-behind our products and the statements relating to safety found on our website and in the vehicle point of sale brochure.

The Three Star ANCAP Test Result

M. Walters rightly points out that ANCAP recently announced an ANCAP test score of 3-Stars for LDV G10 models. While the overall 3-star rating was disappointing, it is important to analyse the crash test result data.

Attached to this email you will find a “Summary sheet” which I have collated, along with the ANCAP test results for LDV G10 and the two market leading vans – Toyota HiAce and Hyundai iLoad – and the ANCAP points scoring requirements.

What the ANCAP crash data shows is the G10 received a total score of **25.4 Points**. This is important to note as the current threshold for a 4-Star rating is 24.5 Points, which the LDV G10 clearly exceeded. The ANCAP test regime parameters have recently been updated, to achieve 4-star rating a vehicle must also have side airbags. G10 does not currently have side airbags, and neither do the current HiAce (4-Star tested in 2006), Hyundai iLoad (tested in 2009) or most other vans that are in this vehicle segment. ANCAP have reduced the score of the G10 to 24.49, when it actually achieved a high enough score to gain the 4-star rating.

You can also see on the test results it performed better in various aspects than HiAce – particularly in the lower leg area of which the Toyota scored 0 points. Toyota HiAce which represents 40% of the total van market is able to claim their 4-Star rating from 2006. When that van was tested the NZ model was not fitted with ESC and only had one airbag – that van was not crash tested again however the rating was updated in 2011 when they fitted a passenger airbag. Toyota and Hyundai ratings are relevant to their TEST YEAR standard – the G10 is clearly just as safe as these market leading vehicles. If the all three brands were tested to the same 2017 standard, it is our view the LDV G10 would outperform the competitors, or at the very least, it would achieve the same rating.

SAIC/LDV are currently looking into the viability of adding side airbags to give the G10 an automatic 4-Star rating from ANCAP.

ANCAP – A CONSUMER RATING

To confirm, ANCAP is an independent consumer rating for-profit organisation. LDV New Zealand has no direct association with ANCAP and does not control what models they test in Australia. Essentially ANCAP is a CONSUMER RATING GUIDE, much like a rating for a toaster, or other appliance. Vehicle manufacturers are under no legal or regulatory obligation to display or use ANCAP ratings in any marketing.

For New Zealand, the actual certification required to bring in a “New Vehicle” is the Statement of Compliance, which is audited by the New Zealand Transport Authority (NZTA). The Statement of Compliance relates to 21 vehicle standards which are typically the ADR (Australian Design Rules) or ECE (European Standards). These standards are significant, in-depth engineering standards on which automakers spend millions of dollars and thousands of testing hours to gain compliance. The fact is, a truly unsafe vehicle is not able to be sold in New Zealand, thanks to NZTA.

I can confirm all vehicles sold and registered by LDV New Zealand (Great Lake Motor Distributors Ltd) hold the required Statements of Compliance.

LDV G10's Safety Features

We have specified the LDV G10 with many safety features. Perhaps the most impressive safety feature the G10 has over the other market leading vans is RMI (Roll Mitigation Intervention)

Below is a quick comparison of specifications on the LDV G10 vs the market leader – the Toyota HiAce

G10 Petrol	HiAce Petrol
2017 3 Star ANCAP (25.4 points truncated to 24.49 under the 2017 ANCAP Protocol)	2006/2011 4 Star ANCAP
Large bonnet with engine in front	Forward control style (no bonnet)

Twin Airbags	Twin Airbags
Seatbelt Interlock Reminder	Seatbelt Interlock Reminder
ESC/Traction control/ EBD/HSA	ESC/Traction control/ EBD/HSA
Reversing camera	Reversing camera
Reversing Sensors	
Blue Tooth	
Tyre Pressure Monitoring System	
Adjustable over-peed warning	
Automatic Headlights	
Automatic Rain Sensing Wipers	
Adaptive Headlights	
4 Wheel disc brakes	
Emergency Brake Assist and much more	

LDV G10's customer base / market segment

LDV G10 is a value based vehicle, and certainly has a load of features. While the G10 competes in the New Vehicle Market, most of our customers are actually coming from, or consider, a used Japanese vehicle import. These Japanese imports are typically "forward control" vans with no bonnet/frontal impact protection, ESP and in some cases no ABS. The G10 is clearly a much safer option than these vans.

I trust the above and attached information clarifies the G10 Safety. Should you need any further reference material such as statements of compliance I am happy to supply these. David Crawford – CEO of the Motor Industry Association – can also confirm the regulatory standards and ANCAP consumer rating status.