

<b>COMPLAINT NUMBER</b>	18/024
<b>COMPLAINANT</b>	J Temor
<b>ADVERTISER</b>	Hyundai New Zealand
<b>ADVERTISEMENT</b>	Hyundai New Zealand, Digital Marketing
<b>DATE OF MEETING</b>	13 February 2018
<b>OUTCOME</b>	Not Upheld

## SUMMARY

The Hyundai website, [www.hyundai.co.nz](http://www.hyundai.co.nz), advertises the Santa Fe with a picture of the vehicle and the wording “NZ’s Favourite Family Wagon from RSP \$49,990 + ORC’s\*\*”

The TVC advertisement available via Hyundai’s YouTube channel makes the claim “The Santa Fe has been New Zealand’s favourite family wagon for three consecutive years”.

The Complainant was concerned the advertisements on the Hyundai website and YouTube channel were misleading to claim the Santa Fe was New Zealand’s favourite family wagon and provided statistics to show this was not the case.

The Advertiser provided the methodology and statistics behind its claim the Santa Fe was NZ’s favourite family wagon. It also detailed the parameters of the vehicle types used in the comparison exercise.

The majority of the Complaints Board ruled that given the clear substantiation provided by the Advertiser, the advertisement was not in breach of the Rule 2 requirement for truthful presentation and had been prepared with the due sense of social responsibility required by Basic Principle 4 of the Code of Ethics.

A minority of the Complaints Board disagreed and said a claim such as ‘favourite’ was a qualifying statement which needed to include a link to the source information used to substantiate the assertion. That would strengthen the claim being made and avoid any misunderstanding from consumers.

In accordance with the majority, the Complaints Board ruled the complaint was Not Upheld.

### **[No further action required]**

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

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## 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 contained anything which, either directly or by implication, was likely to deceive or mislead the consumer and if it had been prepared with a due sense of social responsibility to consumers and to society.

**The Complaints Board ruled the complaint was Not Upheld.**

### **The Complaint**

The Complainant was concerned the advertisements on the Hyundai website and YouTube channel were misleading to claim the Santa Fe to be NZ's favourite family wagon.

### **The Advertiser's Response**

The Advertiser provided the methodology and statistics behind its claim the Santa Fe was NZ's favourite family wagon. It clarified that the rationale behind the term 'family wagon' was based on new registrations for private passenger vehicles.

The Advertiser's understanding of the Complainant's analysis of the statistics was that they had been compiled by using all New Zealand vehicle registrations across multiple segments, likely including vehicles registered for commercial purposes such as taxis, goods vehicles and rental care services.

### **The Complaint Board Discussion**

The Complaints Board agreed the parameters the Advertiser used to compile its statistics were based on a reasonable rationale of what constituted a family wagon, namely a private passenger vehicle.

Upon viewing the substantiation provided by the Advertiser, the Complaints Board was satisfied the Advertiser had qualified the use of the absolute term 'favourite' in the context of its definition of a 'family wagon' and how sales compared to like vehicles from competitors.

The majority of the Complaints Board ruled that given the clear substantiation provided by the Advertiser, the advertisement was not in breach of the Rule 2 requirement for truthful presentation and had been prepared with the due sense of social responsibility required by Basic Principle 4 of the Code of Ethics.

A minority of the Complaints Board disagreed and said a claim such as 'favourite' was a qualifying statement which needed to include a link to the source information used to substantiate the assertion. That would strengthen the claim being made and avoid any misunderstanding from consumers.

In accordance with the majority, the Complaints Board ruled the complaint was Not Upheld.

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## **DESCRIPTION OF ADVERTISEMENT**

The Hyundai website, [www.hyundai.co.nz](http://www.hyundai.co.nz), advertises the Santa Fe with a picture of the vehicle and the wording "NZ's Favourite Family Wagon from RSP \$49,990 + ORC's\*

The Santa Fe has all you need from a Kiwi family wagon. Seven seats, all-wheel drive and advanced smart technology offer comfort, safety and space for the entire family to travel. That's why, year after year NZ's favourite family wagon continues to win hearts and minds. Get into your local Hyundai dealer today and experience the Santa Fe at this limited time special RSP price."

The TVC advertisement available via Hyundai's YouTube channel makes the claim the "Santa Fe has been New Zealand's favourite family wagon for three consecutive years".

### COMPLAINT FROM J TEMOR

I was on the Hyundai website today looking at vehicles and found the following claim;  
 "The Santa Fe has all you need from a Kiwi family wagon. Seven seats, all-wheel drive and advanced smart technology offer comfort, safety and space for the entire family to travel. That's why, year after year NZ's favourite family wagon continues to win hearts and minds."

Upon seeing the claim I wondered what makes the Santa Fe "New Zealand's favourite family wagon."

I also noted that this claim is also made in a TV advertisement from May 2017 where they claim to have been NZ's favourite family wagon for 3 years running?

[https://www.youtube.com/watch?v=\\_5VG6Sj1tq8](https://www.youtube.com/watch?v=_5VG6Sj1tq8)

I wondered if this was because the Santa fe sold more than other SUVs it competes against? Upon looking online I found that not to be the case;

NZ Vehicle registrations Jan 2017 - November 2017

Toyota Rav4 - 4,116 sales

Kia Sportage - 3,399 sales

Mazda CX-5 - 3,008 sales

Mitsubishi Outlander - 2,453 sales

Holden Captiva - 2,016 sales

Nissan X-trail - 1,674 sales

Hyundai Santa Fe - 1,511 sales

So that would show through the top measure of popularity with 'Kiwi families' that the Hyundai Santa Fe is nowhere near the most 'popular' or 'favourite' SUV.

I thought that might be due to the Santa Fe being awarded a number of consumer awards - more than its competitors. Again, that was not the case. The Santa Fe has won car of the year awards back in 2015, in particular through the AA which can be considered an endorsement from 'Kiwi families' but the Santa Fe did not win these awards in 2016 & 2017.

With that in mind, I'm struggling to see how Hyundai can make this claim about their Santa Fe when it's not even in the Top 5 sales in its class (Medium SUV) which is the true indicator of popularity, neither has it won any significant consumer awards in recent times.

As an ex car dealer I feel the burden of substantiating claims like these must be placed on the advertiser as this sort of bold-faced lie is what makes people view the car industry in a negative fashion.

As this claim has been recently used by Hyundai (as of Jan 2018) <https://www.hyundai.co.nz/latest-deals/santa-fe-rsp-49%2C990-orc-s-> with nothing to back it up,

I feel this is showing a blatant disregard for the facts.

### 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 – HYUNDAI

- 1 We are responding to the complaint sent to you from J Temor on 3 January 2018, and your subsequent letter asking us for a written response by 25 January 2018.
- 2 Hyundai Motors NZ (“**Hyundai**”) is responding on its own behalf and does not represent any other parties.
- 3 Set out in the attachment to this letter is the information requested in the ASA template response form.

### The complaint

- 4 We understand that the complaint relates to two related claims made by Hyundai:
  - 4.1 that the Hyundai Santa Fe is “NZ’s favourite family wagon”, made on Hyundai’s website, [www.hyundai.co.nz](http://www.hyundai.co.nz); and
  - 4.2 that the Hyundai Santa Fe has been “New Zealand’s favourite family wagon for three consecutive years”, made in a YouTube video available at [www.youtube.com/watch?v=\\_5VG6Sj1tq8](http://www.youtube.com/watch?v=_5VG6Sj1tq8), published on 26 May 2017;
 (together, the “**Claims**”).
- 5 We note that in relation to the claim at 4.2 the complainant refers only to the digital advertisement that has been available on Hyundai’s YouTube channel since 26 May 2017. However, an advertisement in this form was also run on television in May and June 2017. In this letter, Hyundai has responded on the basis that the complaint to be answered refers to a digital advertisement only. Please let us know if the ASA also requires broadcast information relating to when the advertisement was televised.
- 6 The essence of the complaint is that the Santa Fe is not in fact “NZ’s favourite family wagon”, based on various statistics cited in the complaint. The complainant alleges that the Claims are false and misleading representations that breach New Zealand’s Advertising Codes of Practice.
- 7 The relevant sections of the Advertising Codes of Practice, as identified in your letter, are basic principle 4 and rule 2 of the Code of Ethics.
  - 7.1 Basic Principle 4: All advertisements should be prepared with a due sense of social responsibility to consumers and to society.
  - 7.2 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).

**Hyundai's Claims are not in breach of the Code of Ethics**

- 8 Hyundai does not believe that the Claims are false, misleading or deceptive. The Claims have been made by Hyundai with proper regard to its social responsibility to consumers and society. The Claims do not breach the ASA's Code of Ethics.
- 9 Hyundai's position is that the Santa Fe is in fact New Zealand's favourite family wagon, and has been for the years 2015, 2016 and 2017. The Claims can be substantiated and have been made on the basis of vehicle registration statistics compiled and analysed by Hyundai.
- 10 Hyundai's methodology for compiling the vehicle registration statistics was designed to identify "NZ's favourite family wagon" as accurately as possible. The rationale behind the methodology used is explained below.

**Statistics substantiating the Claims**

- 11 The claim made on Hyundai's website that the Santa Fe is "NZ's favourite family wagon" is based on the following vehicle registration statistics:

<b>Make and Model</b>	<b>Total registrations January to November 2017</b>
Hyundai Santa Fe	1,468
Holden Captiva	1,427
Subaru Outback	1,344
Toyota Highlander	1,313
Mazda CX-9	1,117
Kia Sorento	676
Jeep Grand Cherokee	493
Toyota Land Cruiser Prado	491
Audi Q7	420
Holden Trailblazer	420

- 12 The above statistics have been sourced from NZTA sales data. The search was performed over a base of:
- 12.1 Large, Upper Large, SUV Large, SUV Luxury, People Movers (Total Market Segmentation);
- 12.2 Private Passenger (Vehicle Usage);
- 12.3 Station Wagon (Body Type); and
- 12.4 for the months January 2017 through to November 2017.

- 13 The claim made on the YouTube advertisement that the Hyundai Santa Fe has been NZ's favourite family wagon for the last three years running (being 2015, 2016 and 2017), is based on the following vehicle registration statistics:

<b>Make and Model</b>	<b>Total registrations from January 2015 to November 2017</b>
Hyundai Santa Fe	5,173
Holden Captiva	4,531
Subaru Outback	3,874
Toyota Highlander	3,420
Ford Territory	1,999
Jeep Grand Cherokee	1,973
KIA Sorento	1,738
Mazda CX-9	1,731
Toyota Land Cruiser Prado	1,412
Dodge Journey	1,379

- 14 The above statistics have been sourced from NZTA sales data. The search was performed over a base of:
- 14.1 Large, Upper Large, SUV Large, SUV Luxury, People Movers (Total Market Segmentation);
- 14.2 Private Passenger (Vehicle Usage);
- 14.3 Station Wagon (Body Type); and
- 14.4 for the calendar years 2015, 2016 and 2017.

### **Methodology**

- 15 The methodology Hyundai has used for calculating the relevant number of registrations has two elements: first, the type of vehicle registrations taken into account; and secondly, the models of vehicle that are considered "family wagons" in competition with the Santa Fe.
- 16 Hyundai's statistics are based on the number of registrations of vehicles that are:
- 16.1 new; and
- 16.2 being registered as "Private Passenger Vehicles".

- 17 Taking into account only the registration of new vehicles means that the results will not be skewed by any changes in registered owner of existing vehicles, or the importation of vehicles from unauthorised sources.
  - 18 It is inherent in the concept of a “family wagon” that the vehicle will be used as a private passenger vehicle. Only taking into account private passenger vehicle registrations eliminates vehicles that are used for non-domestic purposes such as taxis, goods vehicles or rental vehicles.
  - 19 While it is not clear, it appears the complainant has taken all New Zealand vehicle registrations into account, across multiple segments, which likely include vehicles registered for commercial purposes such as rental car services.
  - 20 “Family wagon” is not a technical term and does not have a settled definition. Rather, the term is colloquially used to describe vehicles uniquely suited to families with children. The average consumer would consider a typical “family wagon” to be a large SUV that prioritises space and safety.
  - 21 The Santa Fe is designed to be the quintessential family wagon: large, with room to seat seven people, high levels of safety and with SUV features that allow it to be suitable for use in a variety of environments.
  - 22 Hyundai’s statistics result from searching over the “station wagon” body type, and the following market segments: “large”, “upper large”, “SUV large”, “SUV luxury” or “people movers”. The makes and models of vehicle being compared in Hyundai’s statistic tables are, in Hyundai’s opinion, what the average consumer would consider the main family wagons on the market.
- Conclusion**
- 23 Hyundai does not believe that the Claims breach the Code of Ethics.
  - 24 The vehicle registration statistics as collected by Hyundai are as accurate as possible, and support and substantiate Hyundai’s Claims around the Santa Fe being “NZ’s favourite family wagon” for the relevant time periods. Hyundai believes it has a reasonable basis for making the Claims and that the Claims are not false, or misleading or deceptive.

#### **APPEAL INFORMATION**

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website [www.asa.co.nz](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 days of receipt of this decision.