

<b>COMPLAINT NUMBER</b>	18/313
<b>COMPLAINANT</b>	P Austin & J Drayton
<b>ADVERTISER</b>	VTNZ
<b>ADVERTISEMENT</b>	VTNZ, Television
<b>DATE OF MEETING</b>	9 October 2018
<b>OUTCOME</b>	Not Upheld

## SUMMARY

The VTNZ television advertisement shows a fictional character, Mr Road Commander, taking his 'Mad Max' style car into VTNZ to get a WoF (Warrant of Fitness). The VTNZ employee says in part... "Well your tread's great, but this flame thrower is a little bit of a no no and the harpoon is not compliant either." Mr Road Commander removes the vehicle accessories while the assessor says "We did put some new blades on." Mr Road Commander appears excited until he realises she means wiper blades. The vehicle is given a pass and ends with the owner conveying this outcome to "Gary" who is chained up on the back of the vehicle.

Two complaints were received about this advertisement with the Complainants concerned a non-compliant vehicle was given a pass by the VTNZ Officer which could give customers a misleading impression about what could pass a WoF inspection. The Complainants were specifically concerned about a lack of mudguards and the front scoop on the vehicle.

The Advertiser said the advertisement was designed to engage New Zealanders about vehicle maintenance and WoF certifications in an appealing way. The Advertiser clarified that the Road Commander is a fictional, embellished character who required a vehicle certification and was never intended as a real-life example of how to pass a WoF. The Advertiser addressed the technical concerns raised by the Complainants with regard to the mudguard and front scoop by explaining the Low Volume Vehicle (LVV) Certificate process.

The Complaints Board said the likely consumer take-out of the advertisement was that it was a humorous depiction of a hyperbolic scenario which was not intended to be taken literally. The Complaints Board said the Advertiser had addressed the technical concerns raised by the Complainants.

The Board agreed that given the fantastical nature of the advertisement, consumers were unlikely to be misled as to the level of compliance required for a vehicle to pass a WoF. The Complaints Board ruled the advertisement had been prepared with a due sense of social responsibility to consumers and society and was not in breach of Basic Principle 4 or Rule 2 of the Code of Ethics.

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.

Basic Principle 4 required the Complaints Board to consider whether the advertisement had been prepared with a due sense of social responsibility to consumers and to society.

Rule 2 required the Complaints Board to consider whether the advertisement contained 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.

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

#### **The Complaints**

Two complaints were received about this advertisement. The Complainants were concerned a non-compliant vehicle was given a pass by the VTNZ Officer which could give customers a misleading impression about what could pass a WoF inspection. The Complainants were specifically concerned about a lack of mudguards and the front scoop on the vehicle.

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

The Advertiser said the advertisement was designed to engage New Zealanders about vehicle maintenance and WoF certifications in an appealing way. The Advertiser clarified the Road Commander is a fictional, embellished character who required a fitting vehicle, and was never intended as a real-life example of how to pass a WoF.

The Advertiser addressed the technical concerns raised by the Complainants with regard to the mudguard and front scoop by explaining the Low Volume Vehicle (LVV) Certificate process.

#### **The Media Response**

The Commercial Approvals Bureau said the use of humour was obvious and the characters were never intended to be taken seriously. It said the overall takeout is clear that the VTNZ is there to help motorists keep their vehicles roadworthy if possible, and to this end they will fix or adjust minor defects on the spot.

### **The Complaints Board Discussion**

#### **Precedent**

To assist in coming to its decision the Complaints Board reviewed the precedent decision: Complaint 15/486, which was Not Upheld, and Dismissed on Appeal, Decision 16/002.

The precedent concerned a television advertisement for the Nissan Navara showing two men driving and attempting to overtake a truck carrying a large pipe, which dislodged and rolled into their path. The driver proceeded to drive directly through the large pipe and was then shown towing it with chains behind the Nissan. Given the fantasy context of the advertisement, the Appeal Board said the likely general consumer takeout of the advertisement would be the Nissan Navara was "tough and smart," rather than assessing the logistics of the scene. The advertisement was deemed not to have encouraged a disregard for safety or depicted realistic unsafe driving practices.

Turning to the complaint before it, the Complaints Board began by discussing the likely consumer takeout of the advertisement.

The Complaints Board said that while they understood some consumers could take a very literal interpretation of the advertisement which may raise concerns about the warrant process it illustrated, the likely interpretation was a humorous depiction of a hyperbolic scenario, including a vehicle with a flame thrower and a harpoon which was not intended to be taken literally. The Complaints Board said the Advertiser was attempting to portray a business ethos where they welcomed a variety of customers and offered a range of solutions to ensure a vehicle met compliance standards for a WoF.

The Complaints Board noted the Advertiser had addressed the technical concerns raised by the Complainants, describing the Low Volume Vehicle (LVV) Certificate process and associated exemptions. It said the technical detail provided by the Advertiser was sufficient substantiation to show the advertisement was not misleading even when interpreted in the most literal sense.

The Board agreed that given the fantastical nature of the advertisement, consumers were unlikely to be misled as to the level of compliance required for a vehicle to pass a WoF. The Complaints Board ruled the advertisement had been prepared with a due sense of social responsibility to consumers and society and was not in breach of Basic Principle 4 or Rule 2 of the Code of Ethics.

Therefore, the Complaints Board ruled the complaint was Not Upheld.

## **DESCRIPTION OF ADVERTISEMENT**

The VTNZ television advertisement shows a fictional character, Mr Road Commander, taking his 'Mad Max' style car into VTNZ to get a WoF. The VTNZ employee says in part... "Well your tread's great, but this flame thrower is a little bit of a no no and the harpoon is not compliant either." Mr Road Commander removes the vehicle accessories while the assessor says "We did put some new blades on." Mr Road Commander appears excited until he realises she means wiper blades. The vehicle is given a pass and ends with the owner conveying this outcome to a character chained to the back of the truck.

## **COMPLAINT FROM P AUSTIN**

VTNZ advertising a vehicle being issued with a WOF or COF when clearly the vehicle is non compliant, it has no mudguards over the wheels which is a requirement under the WOF or COF regulations. Possibility sending a message to young drivers in particular that this type of vehicle is compliant.

## **COMPLAINT FROM J DRAYTON**

The TV ad has a monster vehicle with harpoons and guns attached. The VTNZ officer has these removed and then says your good to go.

I presume this means it will now obtain a WOF. I think not. The rear wheels have no guards and the front scoop is dangerous. Would miss on these two counts alone. Not "good to go" at all.

A bit too cute? I get VTNZ handle WOF, but this ad gives the impression everything else on the car is compliant, when it not.

## CODES OF PRACTICE

### 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, VTNZ

Please find below our response to the Advertising Codes of Practice outlined in your letter.

#### **In response to Code of Ethics: Basic Principle 4, Rule 2:**

As the largest provider of vehicle safety assessments in New Zealand, VTNZ prides itself on being fair, unbiased and legally compliant with every vehicle assessment that comes through. VTNZ takes our role of keeping New Zealanders safe on the road very seriously, and our current advertisement takes no exception to this.

VTNZ has taken the matters raised by P Austin and J Drayton seriously and it was not our intention to mislead viewers about the vehicle's features.

Our campaign, Road Commander, aims to engage New Zealanders about vehicle maintenance and WoF certifications in an appealing way. The Road Commander is a fictional, embellished character who required a fitting vehicle, and was never intended as a real-life example of how to pass a WoF. The advertisement was created to engage New Zealanders about VTNZ's offering, not to demonstrate the specifics of what makes a vehicle compliant.

Road Commander's vehicle has several modifications which would require a Low Volume Vehicle (LVV) Certificate to be road worthy. LVV is a special certification for modified vehicles and is required before a vehicle can receive a WoF.

With regards to the specific concerns raised:

1. Open wheels are acceptable through the LVV process, such as in the case of Rat Rods and there are plenty of examples of these on New Zealand roads. A LVV certification would exempt the need for mudguards on Road Commander's vehicle, if it were to undertake this certification process.
2. With regards to the low scoop, although vehicles must be at least 100mm off the ground, Road Commander's vehicle has a bolt on body kit. Bolt on body kits are exempt from this rule and are a permissible modification. There is no lower limit for a Cosmetic Body kit.

Safety comes first at VTNZ and every vehicle is assessed in a robust fashion, so viewers of the advertisement can be assured that only legally compliant vehicles will receive WoF certification. Where vehicles are not compliant, VTNZ endeavours to work with vehicle owners on the steps required for the vehicle to become compliant.

Contact person for advertising complaints	Melissa Cheals,
Name and contact at creative agency	Joanna James,
Name and contact at media agency	Will Tran, MBM,
A basic, neutral description of the advertisement	Road Commander (a fictional character) takes his 'Mad Max' style car into VTNZ to get a WOF.
Date advertisement began	Sat 8 <sup>th</sup> September
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	TV, Online video, YouTube, VTNZ Facebook page, Out of home.
Is the advertisement still accessible – where and until when?	Yes. TV will now until mid-next year.
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	Attached
Who is the product / brand target audience?	Prospective VTNZ WoF customers
Clear substantiation on claims that are challenged by the complainant.	<p>With regards to the specific concerns raised:</p> <ol style="list-style-type: none"> <li>1. Open wheels are acceptable through the LVV process, such as in the case of Rat Rods and there are plenty of examples of these on New Zealand roads. A LVV certification would exempt the need for mudguards on Road Commander's vehicle, if it were to undertake this certification process.</li> <li>2. With regards to the low scoop, although vehicles must be at least 100mm off the ground, Road Commander's vehicle has a bolt on body kit. Bolt on body kits are exempt from this rule and are a permissible modification. There is no lower limit for a Cosmetic Body kit.</li> </ol>
The response from the advertiser is included in the published decision. The ASA is not able to	

accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.	
<b>For Broadcast advertisements:</b>	
A copy of the script	Attached
A copy of the media schedule and spot list  (Please remove all financial information)	Attached
CAB key number and rating	VTN0001_45_1W_YT  GXC rating
<b>For Digital advertisements:</b>	
What platform tools have you used to target your audience?	<p>We are targeting an All People aged 25-54 audience on TV, with airtime running on TVNZ, Mediaworks, and Sky (including Prime). We use Nielsen TAM data within TVmap software to book airtime that is targeted to this audience, and specifically do not book any children's airtime.</p> <p>Secondly, the Commercial Approvals Bureau (CAB) have given the current TVNZ Road Commander TVC a GXC (General Except Children's Programmes) rating which means the TVC "May be broadcast at any time except during programmes which are intended specifically for children under the age of 13." This GXC rating provides a second layer of safety, as the TV networks are also responsible for ensuring that the TVC does not air in any children's programming. <a href="https://commercialapprovals.co.nz/how-we-work/cab-classification-system/">https://commercialapprovals.co.nz/how-we-work/cab-classification-system/</a></p> <p>TVNZ 'Road Commander' creative is also being used in video pre-rolls, and via Facebook advertising:</p> <p>Video pre-roll</p> <ul style="list-style-type: none"> <li>• TVNZ On Demand &amp; Three Now are targeting People 25-54 in New Zealand</li> </ul> <p>Facebook</p>

	<ul style="list-style-type: none"> <li>We are using Facebook Ads Manager to target two video link ads to People 25-54 in New Zealand.</li> </ul>
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## RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU

**KEY:** VTN0001 45 1 **RATING:** G

Two complainants have questioned the lack of rear mudguards on the vehicle in this commercial.

The aim of television advertising is to grab the viewer's attention. In this tongue-in-cheek campaign VTNZ shows their target, if possible, is to help customers keep their vehicles safely on the road. This completely over-the-top 'Road Commander' series of advertisements centres around a gigantic character who supposedly drives a colossal hot rod type armoured vehicle.

Road Commander's vehicle clearly has some ridiculous appendages which could never pass a WOF and they are removed one by one. New windscreen blades are fitted by the mechanics to assist in passing the WOF. Not the type of blades our hero perhaps considered! This uniquely modified contraption, similar to the stunt machines used in off road entertainment, always remains stationary. It is never seen on the road. 'Gary', bound and chained across the rear of the vehicle, should confirm to the viewer that the theatre of the commercial should indeed not be taken seriously!

By using humour, the overall takeout is clear that the VTNZ is there to help motorists keep their vehicles roadworthy if possible, and to this end they will fix or adjust minor defects on the spot.

CAB sees no reason to uphold these complaints.

### 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.