

<b>COMPLAINT NUMBER</b>	19/243
<b>COMPLAINANT</b>	M Best and 33 Others
<b>ADVERTISER</b>	Hyundai New Zealand
<b>ADVERTISEMENT</b>	Hyundai New Zealand, Television
<b>DATE OF MEETING</b>	23 July 2019
<b>OUTCOME</b>	Upheld Advertisement to be removed

### **Description of Advertisement**

The Hyundai television advertisement depicted an athlete running on a treadmill while breathing air coming directly out of what appeared to be the exhaust pipes of a Hyundai NEXO vehicle.

A disclaimer saying: “Filmed under strict controlled conditions. Do not attempt this at home. For more information visit Hyundai.co.nz” appeared for 5 seconds of the 30 second advertisement.

### **Summary of the Complaints**

The ASA received 34 complaints about this advertisement. The Complainants raised the following general concerns about the advertisement:

- It is insensitive to those who have lost loved ones from suicide
- It is dangerous due to the risk of copy-cat behavior which could result from screening the advertisement, especially when it is viewed by young and/or vulnerable people
- It is misleading because it implies it is safe to breathe car exhaust
- The advertiser shouldn't profit from suicide

Some of the Complainants said they understood the clean air message about hydrogen-powered cars but found the advertisement to be in poor taste. This is because it is commonly known that people can commit suicide by breathing car exhaust, and New Zealand has a high suicide rate.

### **Issues Raised**

- Social Responsibility
- Decency and Offensiveness
- Safety

### **Summary of the Advertiser's Response**

The Advertiser said they don't believe the advertisement is offensive or encourages or condones illegal or unsafe practices or portrays situations that encourage or condone a disregard for safety. The Advertiser said the advertisement has a clear safety message.

The Advertiser said the advertisement was paused after Hyundai got feedback from its website and its Facebook page, and different advertisements from the campaign have been used instead.

The Advertiser said it has been considering how it can strengthen the safety message in the advertisement, possibly by increasing the font size of the message and screening it for longer.

### **Summary of the Complaints Board Decision**

The Complaints Board upheld the complaints about a television advertisement for Hyundai which depicted an athlete running on a treadmill while breathing air coming directly out of what appeared to be the exhaust pipes of a Hyundai NEXO. The Complaints Board said the advertisement was likely to cause widespread offence and portrays a situation which could encourage a disregard for safety. This is because it presents a well-known method used for committing suicide and suicide is acknowledged as a significant issue in New Zealand society.

### **Relevant ASA Codes of Practice**

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

#### **ADVERTISING STANDARDS CODE**

**Principle 1 Social Responsibility:** Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

**Rule 1(c) Decency and Offensiveness:** Advertisements must not contain anything that is indecent, or exploitative or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt abuse or ridicule.

**Rule 1(e): Safety:** Advertisements must not, unless justified on educational or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.

### **Relevant precedent decisions**

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 17/217 which was Upheld in part and Settled in part and Decision 18/409 which was Settled.

The full versions of these decisions can be found on the ASA website: <https://www.asa.co.nz/decisions/>

**Decision 17/217** concerned an advertisement for V Energy drink which showed construction workers jumping into wet concrete and firing a nail gun. The Complaints Board was concerned the advertisement showed the workers coming into contact with concrete, which is a caustic material and it showed irresponsible use of a power tool. The Complaints Board said both of these activities could be easily emulated.

**Decision 18/409** concerned an advertisement for Burger King which showed a group of people BBQing sausages inside a camper van. The Chair of the Complaints Board was concerned the advertisement depicted unsafe behaviour which is potentially life threatening.

### **Complaints Board Discussion**

#### *Consumer Takeout*

The Complaints Board agreed the consumer takeout of the Hyundai advertisement was the emissions coming out of this car are so clean you can breathe them.

The Complaints Board noted the Hyundai NEXO is a hydrogen powered vehicle and, according to the Hyundai website, "is currently unavailable for purchase in New Zealand."

*Is the advertisement likely to cause widespread offence?*

The Complaints Board agreed the advertisement was likely to cause widespread offence. This is because the advertisement brings to mind a well-known method used for committing suicide and suicide is acknowledged as a significant issue in New Zealand society.

The Complaints Board said while the emissions produced by hydrogen-powered cars may be “clean enough to breathe”<sup>1</sup>, the average consumer could not be expected to know this as hydrogen-powered cars are not currently available on the New Zealand market. The Complaints Board also noted that the voiceover comment introducing the idea that this vehicle is using a new type of technology: “...A car that cleans the air we breathe. That’s Hydrogen Technology” is introduced 22 seconds into a 30 second advertisement.

Regardless of the content of the emissions coming from the depicted car, viewers are still likely to associate this practice with a well-known method of suicide.

*Does the advertisement encourage or condone an unsafe practice or portray a situation which could encourage or condone a disregard for safety?*

The Complaints Board agreed the advertisement portrays a situation which could encourage a disregard for safety. This is because the advertisement portrays a well-known method of suicide and there is a risk of copy-cat behaviour.

*Is the advertisement socially responsible?*

The Complaints Board said the advertisement was not socially responsible, taking into account context, medium, audience and product and was in breach of Principle 1 and Rules 1(c) and 1(e) of the Advertising Standards Code.

**Outcome**

The Complaints Board ruled the complaint was **Upheld**.

Advertisement to be removed.

**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.

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<sup>1</sup> See Response from the Advertiser, Hyundai “The athlete running on a treadmill wearing an ‘altitude training running’ mask validates the fact that the air coming from the NEXO is clean enough to breathe.”

## APPENDICES

1. Complaints
2. Response from Advertiser
3. Response from Media

### Appendix 1

*As 34 complaints were received, the Secretariat chose the following complaints as representative of the issues raised.*

#### **COMPLAINT FROM M BEST**

Just watched an ad for Hyundai for a new SUV with a man running on a treadmill, he had a face mask on, the camera goes down the tubes connected to the face mask and the tubes are connected to the exhaust of the SUV!!!!. They are advertising the clean air of the car, this is not acceptable, people commit suicide by gassing themselves with cars. Imagine a child sees this and copies it thinking it's ok!! This ad is disgusting and should be removed and not on tv.

#### **COMPLAINT FROM E GRAHAM**

Considering New Zealand high suicide rate, I thought it highly inappropriate to run an advertisement which shows a person connected to breathing apparatus which in turn is connected to the emission outlets of a vehicle.

Having been too (attended in previous role with NZ Police) many suicides involving carbon monoxide poisoning where the deceased had connected themselves or engineered to breath in the emission's of a motor vehicle. I believe it is not only in extremely poor taste but poor judgement to give the inference that you could breathe in the air from a vehicle.

It may be the intent to portray that Electric Vehicles emit no poisonous emissions, however I believe it is in extremely poor taste, and potentially sets a dangerous example. Therefore I submit this complaint.

My expectation from this complaint would be that the aforementioned Hyundai advertisement would not run in the same format again.

#### **COMPLAINT FROM V BATTERSBY**

This evening 07/07/19 on TV 1 while watching Country Calendar at about 7.10 pm a Hyundai advertisement came on showing a person running behind a car with a hose pipe from the person's mouth to the exhaust pipe of the car. The image is quite shocking to look at, albeit they are trying to portray the car is very clean for the environment. My concern is children seeing this would not understand how dangerous doing something like this is. Also this depicts a form of suicide which sadly has been used in our country many times.

There are three adults watching this advert with me and we all feel it is in very poor taste.

#### **COMPLAINT FROM J BIGWOOD**

The advert showing a runner inhaling exhaust fumes from the running vehicle belittles this form of suicide.

No company should profit from the glorification of suicide.

#### **COMPLAINT FROM D SEWELL**

The ad shows a person on a treadmill attached by a tube to the exhaust system of a car. The statement is that the new model is cleaner than air. This is fine.

I feel that the fact it shows a tube attached to a car from which a person is breathing is dangerous. This is how people commit suicide, Not every person is intelligent enough to realise that not every car is this clean!

This is also, I feel offensive to families who may have lost a loved one to this method of suicide.

### **COMPLAINT FROM S WADE**

It was an ad for Hyundai car with a man on a treadmill wearing a mask attached to a vehicle exhaust. I find this disturbing as people have committed suicide doing similar with cars. And my 6 year old daughter asked if this works and can she try it with our car at home. This needs to be taken off air. How many people will try this. The company really needs to think about the way they advertise

## **Appendix 2**

### **RESPONSE FROM ADVERTISER, HYUNDAI**

1. We are responding to the complaint sent to you from M Best and others relating to a Hyundai television advertisement, and your subsequent letter asking us for a written response by 15 July 2019.
2. Hyundai Motors New Zealand Limited ("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 the Hyundai television advertisement which aired on 7 July 2019, depicting an athlete running on a treadmill while breathing air coming directly out of the back of a Hyundai NEXO - a hydrogen powered vehicle.
5. The relevant sections of the Advertising Codes of Practice, as identified in your letter, are Principle 1, Rule 1 (c) and Rule 1(e).

### **The advertisement does not breach Rule 1(c) or Rule 1(e)**

6. Hyundai does not believe that the advertisement contains anything that is indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule.
7. Further, Hyundai does not believe that the advertisement encourages, or condones dangerous, illegal or unsafe practices, or portray situations that encourage or condone a disregard for safety.
8. Hyundai filmed the advertisement in a controlled environment, and included clear safety messaging in the advertisement that it was filmed in a controlled environment, and that the experiment should not be attempted at home.
9. In addition to the safety message, Hyundai included in the voice over script a statement that the Hyundai NEXO hydrogen powered vehicle produces clean air. This statement is capable of substantiation by scientific evidence as to the emissions of the NEXO. It was clear when looking at the image and hearing the voiceover, that the point of the advertisement was that the athlete was breathing in clean air, that allowed the athlete to continue to run.
10. The advertisement is not offensive: it does not portray or imply personal harm in any form. The advertisement shows an athlete running on a treadmill wearing an 'altitude training running' mask to display that the Hyundai NEXO produces air clean enough to breathe. The athlete is being monitored. The image is one which recalls athletes

conducting oxygen or other tests to ascertain athletic performance in particular conditions.

### Next steps

11. Hyundai will increase the size of the safety message and ensure it is displayed on-screen for a material time during the advertisement.
12. We look forward to engaging with the ASA and to resolving this complaint. Please let us know whether we can provide any further assistance at this stage.

A basic, neutral description of the advertisement	The Hyundai NEXO 'Runner' advertisement depicts an athlete running on a treadmill wearing an 'altitude training running' mask attached to a hose, which is connected to the tail pipe of the Hyundai NEXO. This example is used to show that the Hyundai NEXO 'cleans the air we breathe' and that the air coming from the NEXO can be breathed safely.
Date advertisement began	7/07/2019
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	This specific edit of the advertisement appeared on TV.
Is the advertisement still accessible – where and until when?	Hyundai NZ has made the decision to pause the broadcast on TV of this specific edit of the advertisement. Hyundai took this action after we got feedback via the Hyundai website and Facebook. We acted immediately on Monday morning (8 <sup>th</sup> July) to contact the networks to have the advertisement swapped with different advertisements we had planned to run later in the campaign. We have been working with our Creative Director to what steps we can take to strengthen the safety message we already have on the advertisement – as noted in the letter response.
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	<a href="https://www.youtube.com/watch?v=J1rq1uykKrl&amp;feature=youtu.be">https://www.youtube.com/watch?v=J1rq1uykKrl&amp;feature=youtu.be</a>
Who is the product / brand target audience?	This ad is being targeted to people who are interested in vehicles, innovation and sustainable modes of transport – 25+ age group
Clear substantiation on claims that are challenged by the complainant.	This was filmed in a controlled environment (which was created to educate the audience) and is not intended to upset or offend but to educate on the clean emissions from hydrogen technology, which can be backed up by scientific evidence. The athlete running on a treadmill wearing an 'altitude training running' mask validates the fact that the air coming from the NEXO is clean enough to breathe. Hyundai are displaying an experiment that is backed up by scientific evidence, and is not implying or portraying personal harm in any form. NEXO's air filtration system uses three stages of filtering. First, outside air passes through an advanced air filter where 97% of ultrafine particulates alongside harmful gases such as Sulphur dioxide and Nitrous dioxide are filtered and retained. Remaining particulates are then absorbed on the surface of the

	humidifier in stage two and finally the air reaches the Gas Diffusion Layer within the fuel cell stack. This layer is made of carbon fibre paper with a microspore structure allowing for further filtration - the resulting air released has over 99.9% of ultra-fine particles and toxic gases filtered out.																																													
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	"Hyundai NEXO. A car that cleans the air we breathe. That's Hydrogen Technology."																																													
A copy of the media schedule and spot list (Please remove all financial information)	<p>This has not been supplied given Hyundai has made the decision to pause the broadcast of this specific edit of the advertisement until an outcome has been received from the ASA.</p> <p>The only playout of the advertisement to date was 7 and 8 July 2019 on:</p> <table border="1"> <tr> <td>7-Jul-19</td> <td>Sun</td> <td>TVNZ 1*</td> <td>18:41</td> <td>1 NEWS AT 6PM</td> </tr> <tr> <td>7-Jul-19</td> <td>Sun</td> <td>TVNZ 1*</td> <td>19:22</td> <td>HYUNDAI COUNTRY CALENDAR</td> </tr> <tr> <td>7-Jul-19</td> <td>Sun</td> <td>Three*</td> <td>18:20</td> <td>NEWSHUB LIVE AT 6PM</td> </tr> <tr> <td>7-Jul-19</td> <td>Sun</td> <td>ThreeLife*</td> <td>19:50</td> <td>ISLANDS IN TIME</td> </tr> <tr> <td>7-Jul-19</td> <td>Sun</td> <td>ThreeLife*</td> <td>21:10</td> <td>WILD CANADA</td> </tr> <tr> <td>7-Jul-19</td> <td>Sun</td> <td>Three*</td> <td>21:10</td> <td>SUNDAY BLOCKBUSTER: JURASSIC WOR</td> </tr> <tr> <td>7-Jul-19</td> <td>Sun</td> <td>ThreeLife*</td> <td>21:40</td> <td>THE WILD LIFE OF TIM FAULKNER</td> </tr> <tr> <td>8-Jul-19</td> <td>Mon</td> <td>Three*</td> <td>6:40</td> <td>THE AM SHOW</td> </tr> <tr> <td>8-Jul-19</td> <td>Mon</td> <td>TVNZ 1*</td> <td>8:50</td> <td>BREAKFAST 3</td> </tr> </table>	7-Jul-19	Sun	TVNZ 1*	18:41	1 NEWS AT 6PM	7-Jul-19	Sun	TVNZ 1*	19:22	HYUNDAI COUNTRY CALENDAR	7-Jul-19	Sun	Three*	18:20	NEWSHUB LIVE AT 6PM	7-Jul-19	Sun	ThreeLife*	19:50	ISLANDS IN TIME	7-Jul-19	Sun	ThreeLife*	21:10	WILD CANADA	7-Jul-19	Sun	Three*	21:10	SUNDAY BLOCKBUSTER: JURASSIC WOR	7-Jul-19	Sun	ThreeLife*	21:40	THE WILD LIFE OF TIM FAULKNER	8-Jul-19	Mon	Three*	6:40	THE AM SHOW	8-Jul-19	Mon	TVNZ 1*	8:50	BREAKFAST 3
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CAB key number and rating	HYN 0902 30 Approved by CAB with a General approval rating.																																													

### Appendix 3

#### RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU HYUNDAI TELEVISION ADVERTISEMENT

**COMPLAINT: 19/243      KEY: HYN090230      RATING: G**

We have been asked to respond to this complaint under the following codes:  
Advertising Standards Code – Principle 1, Rule 1(c), Rule 1(e);

CAB approved this Hyundai Nexo commercial on 25/06/19 with a 'G' general classification.

The Hyundai Nexo is a hydrogen powered vehicle. It does not produce dangerous carbon monoxide emissions, it produces harmless droplets of water.

It is safe to run on a treadmill while a Nexo is operating.

Complainants speculate that the commercial has some cognitive link to suicide. No one has ever committed suicide by carbon poisoning with a hydrogen fuelled car – because it is impossible. It is an impossible scenario.

If the commercial resembled a dangerous situation in any *credible* way, it would not be approved by CAB. Since the depicted scenario is safe, it meets the correct standard for approval.