

<b>COMPLAINT NUMBER</b>	21/097
<b>ADVERTISER</b>	Toyota New Zealand Limited
<b>ADVERTISEMENT</b>	Lexus, Television
<b>DATE OF MEETING</b>	23 March 2021
<b>OUTCOME</b>	Not Upheld No Further Action Required

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

The Complaints Board did not uphold a complaint about a Toyota television advertisement for its Lexus IS model. The Complaints Board said there were sufficient imagery in the advertisement to show the vehicle was being driven on a racetrack rather than a public road and it was promoting the high-performance qualities of the car rather than condoning excessive speed.

### **Advertisement**

The Toyota New Zealand television advertisement promoting the Lexus IS shows a long shot of a winding racetrack and then the Lexus car being driven around the road. The voiceover says “We don’t just create cars, we create goosebumps. We don’t just make an RPM, but BMP and it doesn’t just grip the road, it grips you too.” The advertisement ends with voiceover saying, “Performance which goes beyond necessary.” The text says “#BEYONDNECESSARY” The advertisement contains a super which says “Overseas model shown.”

### **Summary of the Complaint**

The Complainant was concerned the advertisement showed a car going over the speed limit and implying it is OK to break the law.

### **Issues Raised:**

- Social Responsibility
- Safety

### **Summary of the Advertiser Response**

The Advertiser said the advertisement is shot in Japan at a purpose-built racetrack for testing vehicles which is shown at the start of the footage along with the “Overseas model shown” disclaimer. The Advertiser showcases the vehicle’s high-performance and no speed is shown or can be confirmed by the Complainant. The Advertiser said there is no dangerous, illegal or unsafe practises shown as it was clearly filmed on a closed track environment and under controlled conditions.

### **Summary of the Media Response**

The Commercial Approvals Bureau said footage shows the vehicle leaving a securely fenced area and being driven through gates onto a purpose-built track with safety barriers, which is clearly a testing environment. The super “Overseas Model Shown” reinforces the fact it is not shot on a New Zealand Road.

## 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(e) Safety:** Advertisements must not, unless justifiable 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 precedent Decision 19/309 which was Upheld.

The full version of this decision can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

**Decision 19/309** concerned an advertisement television advertisement for the Mercedes-Benz CLA Coupe vehicle. The advertisement showed a man driving his 16-year-old self around, including driving through a shipping yard. The Complaints Board said the advertisement did glorify speed and condoned an unsafe practice under Rule 1(e) of the Advertising Standards Code. The Board said the fast-paced visuals made it difficult to distinguish the shipping yard from the open road. The visuals, including the appearance of the car swerving from side to side and the soundtrack, which included a high revving engine and high-paced music, contributed to the overall takeout of glorifying speed.

### Complaints Board Discussion

The Chair noted that the Complaints Board's role was to consider whether there had been a breach of the Advertising Standards Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised.

#### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement was it showed the performance testing of a high-performance luxury car which will provide an exciting driving experience for the consumer.

#### *Does the advertisement encourage or condone dangerous, illegal or unsafe practices?*

The majority of the Complaints Board said there was sufficient imagery in the advertisement to signal the vehicle was being driven on a testing racetrack, including the caged entrance, hairpin turns, banked corners, safety fences and lack of other traffic. The majority of the Board said that the driving shown in a racetrack environment did not encourage or condone unsafe or illegal behaviour. The majority said there was no emphasis placed on speed and the "Beyond necessary" tagline was alluding to the performance and quality of vehicle rather than speed. For the majority of the Complaints Board the advertisement was not in breach of Rule 1(e) of the Advertising Standards Code.

A minority of the Complaints Board disagreed and said some consumers would not pick up on the signals indicating the advertisement was filmed on a closed test track. The minority of the Board said the advertisement should have included the super “filmed in a controlled environment” to make clear to consumers that the vehicle’s performance was not being demonstrated on an open road. For the minority, the images together with the tagline “Beyond necessary” could be interpreted to as encouraging speeding which condoned an unsafe, illegal practice.

*Has the advertisement been prepared and placed with a due sense of social responsibility?*

The Complaints Board said the advertisement could have been clearer by informing the consumer that it was filmed in a controlled environment. The majority of the Board said that on balance there were enough signals for most consumers and the level of potentially dangerous driving activity did not meet the threshold to make the advertisement socially irresponsible.

A minority of the Board said the lack of clear information the advertisement was filmed in a controlled environment meant the advertisement condoned unsafe practices and was in breach of Principle 1 and Rule 1(e) of the Advertising Standards Code.

However, in accordance with the majority, the Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product, and was not in breach of Principle 1 or Rule 1(e) of the Advertising Standards Code.

#### **Outcome**

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

No further action required.

#### **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 calendar days of receipt of this decision.

## APPENDICES

1. Complaint
  2. Response from Advertiser
  3. Response from Media
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### Appendix 1

#### COMPLAINT

The Lexus ad shows the car speeding and going over the speed limit. This ad basically says that it's ok to speed and it's ok to break the law. This ad shouldn't be played on television as it can lead to people actually causing accidents.

### Appendix 2

#### RESPONSE FROM ADVERTISER, TOYOTA NEW ZEALAND LIMITED

1. The advertisement was shot at the Shimoyama Technical Centre in Japan (this is a Toyota Motor Corporation global asset hence the 'Overseas model shown'), which is a racetrack purpose built to test vehicles and not open to the public.
2. This advertisement in no way endorses breaking the law, but rather showcases the performance and handling of a sports sedan vehicle driving around a challenging racetrack.
3. The complaint suggests that the vehicle is speeding and not abiding by the law:
  - a. There is no speedometer reading, so it is speculation that the vehicle is speeding
  - b. Being a race track the speed limits would differ from public roads
  - c. This is a controlled race track environment with experienced race car drivers driving the vehicles
  - d. This 'speeding' is based on the footage with nothing to substantiate the claim and is merely an assumption made by one individual.
4. This advertisement commenced on 7 February 2021 and has been run approximately 160 times since to an estimated audience of over two million people, to date. We have received no complaints about this advertisement.
5. The advertisement was created by Saatchi & Saatchi New Zealand using Toyota Motor Corporation footage from the 2021 Lexus IS reveal. All of the footage was shot at the Shimoyama Technical Centre racetrack which is a closed environment. Before the vehicle is even shown on the advertisement, there is a wide shot of the Track and two different angles on the vehicle entering the racetrack environment:



6. The script speaks to vehicle performance, but does not promote reckless driving:  
**VO: We don't just build cars.**

**We create goosebumps.**

**We don't just think in RPM, but *BPM*.**

**And it doesn't just grip the road...it grips you too.**

**GFX: THE 2021 LEXUS IS.**

**PERFORMANCE THAT'S #BEYONDNECESSARY**

7. The advertisement will be running throughout April, May and June 2021 on television and is available OnDemand as well, including YouTube.
8. Principle 1, Rule 1(e) appears to be the relevant section of the Advertising Standards Code in dispute in this matter: [The] Advertisement must not, unless justifiable on education or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.
9. Relevant previous decision on this matter are limited, as most advertisements were removed before being heard. However, Complaint 19/299 is analogous to this matter; that

complaint was dismissed because the vehicle did not exceed the speed limit. It is our argument that the Lexus advertisement is similar because it was clearly filmed on a closed track environment and under controlled conditions. Further, the driving is conducted by a professional driver to demonstrate the handling and performance of the vehicle.

10. The consumer takeout from this message is that the 2021 Lexus IS a vehicle with exceptional performance and handling that will be a pleasure to drive. The target audience is males, over 35 years old who earn over \$100,000pa.

### **Appendix 3**

#### **RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU**

**Complaint 21/097                  Lexus                  TOY 30 664501                  Classification: G**

The advertisement for the 2021 Lexus is titled "It Grips You". It illustrates how this high-performance vehicle provides an amazing connection between car and driver.

Footage is shown of the vehicle leaving a securely fenced area and being driven through gates onto a purpose-built test course. There are no other vehicles in shot as the Lexus is put through its paces on this highly engineered track with exceptional safety barriers. It is quite clear this is a dedicated testing environment.

The first 5 seconds of the advertisement contain the graphic "Overseas Model Shown" and this is repeated nearer the end of the advertisement for another 6 seconds to reinforce the fact that the film is not shot on a New Zealand road.

There appears to be no reason to uphold this complaint.