

COMPLAINT NUMBER	21/496
ADVERTISER	FUSO New Zealand Limited
ADVERTISEMENT	Shogun 510 truck, Television
DATE OF MEETING	9 November 2021
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a television advertisement for a FUSO Shogun 510 truck. The Complaints Board said the advertisement had been prepared with a due sense of social responsibility and portrayed a legal driving manoeuvre and a low-level sense of competitiveness from the drivers regarding the power of their respective vehicles.

Advertisement

The FUSO television advertisement promotes the new Shogun 510 truck. The advertisement shows two men standing in a warehouse beside a Fuso truck. One man asks, "Caught up with old Muz lately?". The other man replies that he "caught up with him yesterday in Waiwera "in the passing lane". The man describes how he "came up from behind him and dropped it down a cog." The advertisement shows a flashback of one truck following the other and overtaking using a passing lane. The second truck driver looks shocked and says, "what the ...", but is cut off by the sound of a truck horn. The Fuso driver ends his story by saying "I don't know what he said, but he wasn't happy!" The advertisement ends with the FUSO logo and "Shogun510" on screen. A voiceover states, "The new Shogun, now with 510 horsepower."

Summary of the Complaint

The Complainant was concerned the advertisement was irresponsible and encouraged behaviour that is inconsistent with the NZTA Waka Kotahi safety messages, in particular regarding speed and following distance.

Issues Raised:

- Social Responsibility
- Safety

Summary of the Advertiser's Response

The Advertiser said the trucks were not travelling at excessive speeds or driving in an unsafe manner. The Advertiser said the advertisement was about the horsepower of the trucks, not speed. It said the passing manoeuvre was controlled and executed legally and the advertisement played on the historic performance of European versus Japanese trucks.

Summary of the Media Response

The Commercial Approvals Bureau said the G rated advertisement demonstrated the advantage of the Shogun truck's power when carrying heavy loads. All the road rules were fully complied with and there was no depiction of illegal, unsafe behaviour or excessive speed.

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 18/153, which was Not Upheld.

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

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

Decision 18/153 concerned an television advertisement for Holden showed dogs daydreaming about riding in the vehicles in a convoy of vehicles, which the Complainant was concerned showed an unsafe driving practice.

The Complaints Board said the while the short distance between the vehicles was of concern, this was mitigated by the hyperbolic nature of the advertisement from the dog's dream. The Board noted the Advertiser's assurances that legal and safety requirements had been observed while making the advertisement. The Complaints Board ruled the advertisement did not depict unsafe driving practices or any realistic actions which could constitute a traffic offence.

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, which in this case is:
 - Context: A competitive trucking industry in New Zealand
 - Medium: Television (also available on digital marketing)
 - Audience: Road transport and associated distribution community
 - Product: A new 510 horsepower truck from Japan

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was the new FUSO truck is more powerful than previous models.

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

The Complaints Board unanimously agreed the advertisement did not encourage or condone an unsafe practise. The Board said the advertisement showed a truck using a passing lane to overtake another truck in a controlled manner and demonstrated having a vehicle with a superior horsepower allowed the driver to confidently pass another truck safely. The Complaints Board noted that horsepower is the power produced by a truck's engine.

The Complaints Board noted the Advertiser confirmed the advertisement was about horsepower and torque rather than speed and said the vehicles were travelling at 30-35kph during the passing manoeuvre on the hill. The Complaints Board also agreed the rear wheels of the passing vehicle did not intersect the yellow road markings and the following distance of the second truck was in keeping with a vehicle preparing to execute a passing manoeuvre.

The Complaints Board said the reaction of the driver being passed was one of surprised frustration rather than fright or alarm. The Board said the intended audience for the advertisement was likely to be people in the transport industry who would understand the history of the relative power of European versus Japanese manufactured trucks, which would explain the driver's surprise when the Shogun 510 overtakes his truck.

The Complaints Board said the advertisement was not in breach of Rule 1(e) of the Advertising Standards Code.

Was the advertisement prepared and placed with a due sense of social responsibility to consumers and society?

The Complaints Board said the advertisement had been prepared with a due sense of social responsibility and portrayed a legal driving manoeuvre and a low-level sense of competitiveness from the drivers regarding the power of their respective vehicles.

The Complaints Board said the advertisement was Not Upheld, 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. Appeals must be made in writing with notification of the intent to appeal lodged within 14 calendar days of receipt of the written decision. The substantive appeal application must be lodged with the ASA within 21 calendar days of receipt of the written decision.

APPENDICES

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

COMPLAINT

The ad in question shows a truck passing another truck on a Passing lane, but the over arcing narrative of the ad is that this truck is faster more powerful and encourages passing other trucks . I believe this to be irresponsible and encourage behavior that is inconsistent with the Land transport Safety messages.. In the context of NZ transports safety messaging around speed this ad is inconsistent with this messaging and is even more unsettling given the damage a truck can do at speed in NZ Although the ad is intended to show a truck passing another truck legally on a passing lane the context of this seems to suggest that a faster truck and more powerful truck will enable you to rib your truck driver friends and I believe this could encourage other truck 2 drivers to race their other colleagues. Trucks are only permitted to do 90 Kmph on the road and there is no indication that the vehicle is actually doing this speed, The passing lane scene shows the truck driver discussing this move in a humorous way by stating he "dropped it down a gear" when he caught up with him. The truck is shown following dangerously close to the other vehicle and making a passing move prior to the full passing lane being available, in fact you can see the rear truck tyre intersecting with the yellow line. In any reasonable person they would see this as a dangerous move. The following dialogue suggests bravado from the driver and then a look of surprise from the passed driver who comments "whoa, what the bleep". I think any reasonable person would conclude from that the pass was unexpected and would support the narrative this vehicle is going fast to pass him that would seem unusual. So with that in mind Im concerned that this type of messaging is irresponsible and breaches promoting safety. I would be disappointed if this is the type of ad we start to see from truck manufacturers given the increase in number of trucks on our road and the size and weight of them Extra care is needed from manufacturers to promote safe and responsible driving and to move toward a more risky message in my mind requires intervention. Im am sure that there are other benefits of this truck that could have been messaged rather than speed and competitiveness of truck drivers.

Appendix 2

RESPONSE FROM ADVERTISER, FUSO

Re: FUSO Television – Complaint 21/496 / Key # FSO30SH510

(Advertising Standards Code - Principle 1, Rule 1(e) Safety)

Please see following the response of Fuso New Zealand Limited in regards to 'FUSO Television – Complaint 21/496'.

We wish to defend this complaint.

The applicable broadcast-quality advertisement can be viewed / downloaded on the following link:

- https://www.dropbox.com/s/gqhb9r2zmi1qxaj/FUSO%20SH510_30%20TV.mov?dl=0

The advertisement is still accessible:

- Sky Sport, TVNZ OnDemand, Facebook, Instagram, LinkedIn, YouTube and our company website.
- The advertisement has previously been distributed by email newsletter on 20/9/21 and 13/10/21.

Media Plan / Script / CAB Details:

- For media plan see attached **Appendix 1**.
- Please see a copy of the script on **page 5** of this document.
- The CAB key number is SH510_30 and the rating is G.

Target Audience:

- The target audience for the Mitsubishi-FUSO Shogun 510 truck is the road transport and associated communities. This encompasses not just pure road transporters, but businesses that distribute their goods and services through the utilisation of their own road transport fleet.
- The ability to target was determined by the medium and is detailed in the second column of the Advertising Booking Confirmation. We believe this illustrates our best efforts to broadcast to an audience that best matches the road transport community.
- The email newsletters were distributed to our own customer database.
- There are around 25 truck brands available in New Zealand and therefore the industry is very dynamic. The market is not niche, it is in fact quite wide and deep. The transport community we are targeting is broad as it includes customers, partners, associates, social networks and families - all of whom are critical influencers. These elements determined the media selected to reach our audience.

Response to Complaint:

We have read the complaint carefully and seek to respond and address the specific points raised by the complainant below.

1. Overarching narrative “that this truck is faster more powerful and encourages passing other trucks”.
 - Trucks regularly pass other trucks in exactly the same fashion as cars pass other cars. Trucks are entitled to do so and it is completely legal. A passing lane is a particularly safe environment for passing.
 - There is nothing wrong with a powerful engine to assist in overtaking (e.g. another truck) to enable trucks to maintain steady and safe flow in the context of other traffic, and to avoid slow trucks travelling in close convoy.
 - The ad is primarily targeted at the road transport industry, although most motorists will understand the concept of passing a slower vehicle on a dedicated passing lane.
 - There are no other vehicles behind the trucks waiting to pass and it is a safe passing manoeuvre.
 - It is clearly depicted that the trucks are on a passing lane.

2. Advertisement is inconsistent with NZ Transport’s safety messaging around speed.
 - The advertisement is about horsepower and torque, not speed. This can be viewed as ‘reserve power’. The new Mitsubishi-FUSO Shogun truck is demonstrated as having the capability to more effectively traverse the gradient of the hill than the other truck because of this feature.
 - The reserve-power is not only a feature it is a point of safety. It provides for the effective and safe use of the passing lane and therefore promotes steady traffic flow for those that share the roads.
 - Aerial shots in particular demonstrate a consistent and controlled passing situation well below the open road speed limit.
 - As filmed, when the trucks cross the bridge they are traveling at approximately 30kph approaching the hill and passing lane. The slower truck is travelling at 30kph and the faster truck is traveling at 35kph during the passing manoeuvre on the hill. Loaded trucks and trailers are only ever able to climb hills at around these speeds, especially if they are loaded. This is an entirely legal process.
 - In the context of the finished commercial, we feel it is clear they are travelling far below 90kph as referred to by the complainant. The various aerial shots reinforce this particularly. Once again, the segment travelling up the hill conveys power and torque, not speed.

3. The truck is following dangerously close to the other vehicle and “making a passing move prior to the full passing lane” i.e. intersecting the yellow line.
 - The rear wheels do not intersect (cross) the yellow line. The passing situation was controlled and smooth, and both vehicles were spaced apart in their respective marked lanes as shown from multiple photographic angles.
 - As noted, the vehicles were not moving at excessive speeds, quite the opposite.

4. The “pass was unexpected”
 - It is clearly depicted that the trucks are on a passing lane where vehicles pass other vehicles.
 - The pass was conveyed as being controlled and at a smooth pace.
 - The older truck driver was frustrated by being passed, not conveying fright or alarm.
 - The frustration shown by the truck driver being overtaken is that European trucks are not usually overtaken by Japanese trucks due to the historical perception of lesser power. This would be well understood by road transport operators.

- For the non-industry audience, the context is that the older truck (reinforced by the older character & rougher truck presentation) is not coping as well on the hill climb as the new more powerful truck.
5. The advertisement could encourage other truck drivers to race.
- The situation depicted is a truck passing another truck on a passing lane.
 - There was no collective or even individual competitiveness in the passing situation as would be the case in a race.
6. “Speed and competitiveness of truck drivers” (the concluding moment)
- The Shogun truck driver, who is a professional driver, was visually calm and unemotional in his driving activity conveying sound vehicle operation, smooth and precise manoeuvring, and also safety, through his calm use of controls and use of the rear vision mirror. The character was not aggressive and softly spoken and friendly in his audio delivery in terms of tonality.
 - We believe the behaviour of the Shogun driver character demonstrates professionalism, calmness and control. He is a human character and also conveys a sense of humour in an appropriate situation off the road at the end of the ad without indicating competitiveness or aggressiveness.

Additional Commentary / Information

- Please note that the commercial has had an estimated total reach of 179,548 across Sky Sport, TVNZ OnDemand and social media to date and we have only received this single complaint.
- We have received no other complaints in regards to unsafe practices either from transport authorities, organisations or individuals.
- All feedback from the industry and others has been very positive. They understand the ad and appreciate it. Unfortunately, we believe trucks are misunderstood, and we suggest if this was a ‘car passing a car’ or ‘car passing a truck’ situation this may not have received the same complaint.
- We acknowledge that the general public are not accustomed to seeing trucks on television. Many people will be more familiar with car manufacturers like Toyota on television. The light-hearted humour seen in the truck ad is very similar to the style of the Toyota’ Barry Crump and Toyota ‘Bugger/Dog’ ads.
- We undertook the standard approvals through the Commercial Approvals Bureau (responsible for approving and classifying all television advertisements on behalf of New Zealand’s television industry).

In a wider context, the Mitsubishi-FUSO brand and market communications in New Zealand centres on safety. We are a private NZ family-owned business and within the global Mitsubishi-FUSO business we have been a leading proponent for the inclusion of advanced safety features across our product range. We have also been the leading proponent for sustainability and advanced safety features in the New Zealand marketplace for many years and it is a genuine and critical value of who we are.

- **Appendix 2** illustrates some examples and gives context to our company’s approach to social responsibility and safety.

In conclusion

Fuso New Zealand sincerely respects an individual's right to their own opinion and recognise that we all perceive things differently. The complainant's examples of excessive speed and poor driving behaviour are not based in reality in our view. In conclusion, we believe we have addressed all points and ask that this complaint not be upheld.

We appreciate the opportunity to respond and thank you for your consideration.

Script

For Reference - Shogun 510 30-Second Commercial Script

Forklift Driver:

Caught up with old Muzz lately?

Shogun Driver:

Yeah. Caught up with him yesterday.

Forklift Driver:

Yeah, whereabouts?

Shogun Driver:

Oh, at Waiwera.

Forklift Driver:

Not the hot pools?

Shogun Driver:

Nah. On the passing lane. Come up from behind him and dropped it down a cog.

Muzz (Other Truck Driver):

Oh what the? (horn noise)

Shogun Driver:

Don't quite know what he said, but he wasn't happy.

Announcer:

The new Shogun 510. Now with 510 horsepower.

Appendix 1

Advertising Booking Confirmation (*Not included in this decision*)

Appendix 2

In a wider context, the Mitsubishi-FUSO brand and market communications in New Zealand centres on safety.

We are a private NZ family-owned business and within the global Mitsubishi-FUSO business we have been a leading proponent for the inclusion of advanced safety features across the our product range.

We have also been the leading proponent for sustainability and advanced safety features in the New Zealand marketplace for many years and it is a genuine and critical value of who we are.

Appendix 2 illustrates some examples and gives context to our company's approach to social responsibility and safety. (*Photos provided but not included in this decision*)

Appendix 3**RESPONSE FROM COMMERCIAL APPROVALS BUREAU****Complaint 21/496 FUSO SHOGUN Key: FSO30SH510 Classification: G**

One complaint has been laid over the safety and responsibility depicted in this advertisement. This entire focus of this commercial is to promote the power of the FUSO Shogun trucking rig. Chatting to a mate back at the depot, Skip, the Shogun driver, relates catching up with one of their trucking mates, Muz. In a totally safe manner Skip had come up behind a truck being driven by Muz as they had approached and crossed the Waiwera Bridge. Further on as the two large 18 wheelers came to the passing lanes on the steep hill Skip had dropped down a gear, put on his indicator and safely pulled his rig into the fast lane to overtake the slower moving vehicle. The acceleration of the Shogun demonstrated the advantage of power when carrying heavy loads. Muz was clearly taken aback with the ease in which the Shogun had passed him.

The voiceover states "the new Shogun, now with 510 horsepower".

All road rules were fully complied with in this advertisement. It is normal to drop down a gear before requiring acceleration when overtaking or driving up hills, and there is no depiction of illegal, unsafe behaviour or excessive speed.