

COMPLAINT NUMBER	22/169
ADVERTISER	Hyundai
ADVERTISEMENT	Hyundai Television
DATE OF MEETING	23 August 2022
OUTCOME	Not Upheld No further action required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a Hyundai New Zealand television advertisement which presents the new Tucson vehicle as “Cutting edge”. The Board said the imagery used in the advertisement was hyperbolic and did not reach the threshold to show unsafe practices, damage to property or environmental damage.

Advertisement

The Hyundai New Zealand television advertisement promotes the new Tucson vehicle. It shows a woman driving through the city. As she passes by, certain items are cut in half. These items include a car park barrier arm, newspapers and a schoolgirl’s tie. At the end of the advertisement, as the woman walks away from the parked car, the nearby cliff face falls into the sea. The advertisement ends with the text, "All-new Tucson. Cutting edge."

Summary of the Complaints

There were two complaints about this advertisement. The Complainants were concerned the advertisement showed unsafe practices, damage to property and environmental damage, without justification. The Complainants said the car was driving at speed, very close to a school child. When the driver noticed she had caused damage to property, she continued driving.

Copies of the complaints are in Appendix 1.

Issues Raised:

- Social responsibility
- Safety
- Violence and anti-social behaviour
- Protecting the environment

Summary of the Advertiser’s Response

The Advertiser defended the advertisement and said the tone of the advertisement was hyperbolic and symbolic, and referred to the new vehicle as “cutting edge”.

A copy of the Advertiser’s response is in Appendix 2.

Relevant ASA Codes of Practice

The Acting 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.

Rule 1(f) Violence and anti-social behaviour: Advertisements must not, unless justifiable on educational or social grounds, contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property.

Rule 1(i) Protecting the environment: Advertisements must not depict or encourage environmental damage or degradation.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 19/309 which was Upheld and 22/125 which was Not Upheld.

The full versions of these decisions can be found on the ASA website:

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

Decision 19/309 concerned an OnDemand television advertisement for Mercedes-Benz CLA Coupe which showed a man meeting his 16-year-old self, and then driving through a shipping yard.

A majority of the Complaints Board said the advertisement glorified speed and condoned an unsafe practice under Rule 1(e) of the Advertising Standards Code. The majority 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, together contributed to the overall takeout of glorifying speed.

Decision 22/125 concerned a Meridian Energy television advertisement which showed a woman dressed in a flowing green coat in the character of Mother Nature. She uses telekinesis to throw a man into a pond after he litters, and she takes an axe from a man chopping a tree and throws it into a hole which has been dug by a woman, in her garden. The advertisement ends with the text "Be good to Nature and she'll be good to you".

The Complaints Board said the fantastical, hyperbolic nature of the advertisement provided sufficient context to prevent scenarios in the advertisement being viewed as unsafe or socially irresponsible by most consumers.

Complaints Board Discussion

The Acting 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: Increasing public awareness of environmental damage due to climate change
 - Medium: Television
 - Audience: Television audience targeting adults
 - Product: New Tucson SUV car

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was it was a play on the idea that the new Hyundai vehicle is “cutting edge”, as stated at the end of the advertisement. The advertisement showed an impossible reality in which objects appeared to be sliced in half, as the vehicle drove past.

Does the advertisement encourage or condone an unsafe practice, or portray situations which encourage or condone a disregard for safety?

The Complaints Board considered the advertisement as a whole, but in particular noted the scene where the car drives past a school age pedestrian and her tie is cut. The Complaints Board noted the sound of the car engine could imply speed in this scene, but overall the Complaints Board said the consumer takeout was not that the car was speeding. The consumer takeout, in the context of the whole advertisement, was that the tie was ‘cut’ by the cutting-edge quality of the vehicle rather than the vehicle driving too close to the pedestrian or driving at excessive speed.

The Complaints Board said the advertisement did not reach the threshold to encourage or condone an unsafe practice or portray situations which encourage or condone a disregard for safety.

The Complaints Board said the overall tone of the advertisement was hyperbolic and most consumers would understand the fantastical presentation of the vehicle as being “cutting edge” was not intended to be taken literally.

The Complaints Board referred to a precedent decision, 22/125, where Mother Nature uses telekinesis to throw a man into a pond and an axe into a garden, which was Not Upheld. The Complaints Board said in the present case too, the fantastical, hyperbolic nature of the advertisement provided sufficient context to prevent the advertisement being viewed as unsafe or socially irresponsible, by most consumers.

The Complaints Board agreed the woman was not shown to be operating the Hyundai vehicle in a dangerous manner, or in a way that would breach any New Zealand road rules.

Does the advertisement contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property, which is not justifiable on educational or social grounds?

The Complaints Board said the advertisement did not contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property, in the overall context of the advertisement. This is because the overall tone of the advertisement was hyperbolic, and most consumers would understand the fantastical presentation of the vehicle as being “cutting edge” was not intended to be taken literally.

Does the advertisement depict or encourage environmental damage or degradation?

The Complaints Board noted that there has recently been greater public awareness and concern about potential damage to the environment, especially resulting from coastal erosion and landslides.

The Complaints Board said the advertisement did not reach the threshold to depict or encourage environmental damage or degradation. The Board said the image of the cliff collapsing into the sea was another example of the fantastical imagery used in the advertisement and this imagery has been created using computer-generated imagery (CGI).

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

A majority of the Complaints Board said the advertisement had been prepared and placed with a due sense of social responsibility to consumers and to society, taking into account context, medium, audience and product, and was not in breach of Principle 1, Rule 1(e), Rule 1(f) or Rule 1(i) of the Advertising Standards Code.

A minority disagreed. The minority said the advertisement had not been prepared and placed with a due sense of social responsibility to consumers and to society. This is because, although when taken as a whole, the advertisement did not reach the threshold to breach Rule 1(e), Rule 1(f) or Rule 1(i) of the Advertising Standards Code, the depiction of the damage to the environment, especially the scene where the cliff collapses into the sea and the fact the woman driving the car did not appear to have any concerns (she looked into the camera, smiled, and kept walking), was not socially responsible. The minority was also concerned by the sound and images of the car driving past the pedestrian, which some consumers might interpret as involving excessive speed or driving too close to the pedestrian.

Outcome

In accordance with the majority, 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. Complaints
 2. Response from Advertiser
 3. Response from Media
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Appendix 1

There were two complaints about this advertisement.

COMPLAINT ONE

Advertisement Type: Television

TVR Channel Loaded to YouTube and Hyundai website 2 April 2022 and screened during April and May 2022 on TV1 TV3 and on-demand

TVR Programme Name: Many

TVR Broadcast Date: 2022-04-02 TVR Broadcast Time 11:11

Complainant Details:

The commercial is on Hyundai NZ YouTube here:

<https://www.youtube.com/watch?v=9fajNlyKUSc>

And website here (scroll down) <https://www.hyundai.co.nz/suv/all-new-tucson/overview>
Hyundai's commercial for the Tucson suv breaches the code in two ways: -

Rule 1(e) for safety. The commercial shows the car driving at speed through an urban area so fast it 'slices' a pedestrian school child's uniform (see screen shot) implying close shaves with young pedestrians are acceptable driving behaviour. Presumably if the child had been standing centimetres nearer their body would have been cut too. In New Zealand, a pedestrian is hospitalised because of injury from car driving every week with children the most affected. Nine out of ten reported pedestrian injuries (92%) and nearly seven out of ten pedestrian fatalities (67%) occur on urban roads, such as that shown in the commercial. Source: <https://www.nzta.govt.nz/resources/nzpedestrian-profile/6.html> We must have a zero-tolerance for commercials that appear to put our tamariki in harm's way of apparently risky driving. The code guidelines specifically prohibit glorifying excessive speed.

Rule 1(f) Damage to property - the commercial features damage to property throughout - including a carpark exit barrier which is sliced through and falls to the ground, a roadside safety marker and the child's uniform (see screenshots). The driver of the vehicle notices the damage and is remorseless, taking no action and driving on. The comments in Hyundai's YouTube reflect the high level of community concern about the content of the advertisement. Please see screenshot attached and YouTube Channel link. Five out of a total of nine comments (as at 31 May 2022) - over half - are negative sentiment about the commercial, a significant level of disapproval. There is no support shown for the commercial - other than for the soundtrack and the actor's appearance and only one positive comment about the car's appearance.

It is interesting most of the negative comments reflect environmental damage in the commercial - the closing scene shows damage to a cliff - so the ad may also breach the intent of 1 (i). Cliffs are sensitive landscapes, often homes to nesting seabirds, and vulnerable to forces such as coastal erosion and climate change, so the ASA may determine the environmental damage shown is also unacceptable. The creative execution - of illustrating the 'cutting edge' car as literally cutting through things - has been developed without

demonstrating consideration of the code's requirements to not show dangerous behaviour or damage to property.

COMPLAINT TWO

The commercial is on Hyundai NZ YouTube here >
<https://www.youtube.com/watch?v=9fajNlyKUSc>

And website here (scroll down) <https://www.hyundai.co.nz/suv/all-new-tucson/overview>

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Appendix 2

RESPONSE FROM INSPIRE GROWTH PARTNERS, ON BEHALF OF ADVERTISER

1. We are responding to the complaints sent to you from two complainants, and your subsequent letter dated 28th July 2022 asking us for a written response.
2. Inspire Growth Partners Limited (“Inspire”) is responding on behalf of Hyundai Motors New Zealand Ltd (“Hyundai”) and represents Hyundai as its marketing agency.
3. Set out within this letter is the information requested in the ASA template response form.

The Complaint

4. We understand that the complaint relates to the Hyundai commercial depicting a Hyundai Tucson driving through various New Zealand scenes, including both city and rural settings.
5. The essence of the complaint is in relation to the way vehicle is driving and how it is ‘cutting’ certain items/landscapes as it drives, such as a school girl’s tie, a car park barrier arm and a cliff face.
6. The relevant sections of the Advertising Codes of Practice, as identified in your letter, are Principle 1, Rule 1(e), Rule 1(f), Rule 1(i).

Hyundai’s Response

7. Hyundai rejects, and wishes to defend, the claims made by both complainants. In particular, Hyundai draws your attention to a previous ruling by the ASA Complaints Board in respect of the same advertisement (complaint number 22/110). There the Chair of the ASA Complaints Board ruled there were no grounds to proceed with the complaint and that the advertisement had been prepared with a due sense of social responsibility and therefore was not in breach of Principle 1 or Rule 1(e) of the Advertising Standards Code.
8. In that previous ruling, the Chair concluded that the advertisement did not portray a situation which encouraged or condoned a disregard for safety, in breach of Rule 1(e). The Chair said “that the tone of the advertisement was hyperbolic” and “showed an impossible reality in which objects appeared to be sliced in half as the vehicle drove past”. She continued to say that she “believed most consumers would understand the reference to the “cutting edge” of the new vehicle and would be unlikely to take the advertisement literally.” The Chair also confirmed that the woman was not shown to be operating the vehicle in a dangerous manner, or in a way that would breach New Zealand road rules. Nothing in the new complaints undermines these previous conclusions and reasoning of the Chair..
9. Similarly, the advertisement does not breach Rule 1(f). This is because the property damage complained of (the exit barrier, roadside safety marker and child’s uniform) is part of the “impossible reality” portrayed by the advertisement that the Chair refers to in the previous ruling. Consumers will see the slicing of the various property and objects as purely symbolic, rather than examples of violence or anti-social behavior.
10. Hyundai also rejects the complainant’s suggestion that the advertisement breaches Rule 1(i). The scene that shows the cliff falling away was created using CGI and not intended to depict actual erosion or degradation of a cliff face. Consumers will see this part of the advertisement as another aspect of the “impossible reality” Hyundai is using to get across the underlying idea of the vehicle being “cutting edge”. This is particularly so as the scene with the cliff comes last chronologically in the

advertisement after the motif of the vehicle slicing physical objects is well established.

A basic, neutral description of the advertisement	The commercial features a Hyundai Tucson driving through a number of senses and as the vehicle moves past, specific items are cut in half such as a school girls tie, a car park barrier arm and newspapers. The commercial ends on a clifftop which is been cut and the graphics "All-new Tucson. Cutting edge." are shown.
Date advertisement began	4 April 2022
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper, Website)	This specific edit of the commercial appeared on TV and digital channels e.g. Facebook and YouTube
Is this advertisement still accessible – where and until when?	https://www.youtube.com/watch?v=9fajNlyKUSc This ad will be on YouTube until further notice
Who is the product/brand target audience?	This ad is targeted at people who are interested in vehicles – specifically medium sized SUVs.
For Broadcast advertisements:	
A copy of the script	No voice-over is used
A copy of the media schedule and spot list (Please remove all financial information)	August TV spot lists have not yet been approved so we are unable to provide these.
CAB key number and rating	HYN09630 & HYN091660. CAB Rating is G
For Digital advertisements:	
What platform tools have you used to target your audience?	Facebook and Google marketing tools

Appendix 3

RESPONSE FROM COMMERCIAL APPROVALS BUREAU

Complaint 22/169 Hyundai Tuscon Key: HYN0916 30 Classification: G

This commercial for the razor-sharp Hyundai Tuscon promotes the cutting-edge design of the vehicle. As the closing graphics state:

All new Tuscon. Come to the edge

The entire premise of this commercial is a visual metaphor – communicating information without the use of words. Footage is juxtaposed with images reinforcing the cutting-edge message which include slicing through a carpark exit barrier, newspapers as they are being read, the ties of girls walking along the footpath, rocks being dissected and closing shots of the cliff edge falling away. Visual metaphors are commonly used within film, television, and advertising to stimulate the consumer or viewer to give consideration or 'food for thought' to the message.

Consumers have grown more adept in understanding and interpreting visual metaphors, so it is rather disappointing that in this instance the complainant has been unable to distinguish between reality and imagery.

There appears to be no reason to uphold this complaint.