

Decision of the ADVERTISING REGULATORY BOARD

Complainants	David Lazarus Louise McIntosh
Advertiser	Toyota South Africa
Consumer/Competitor	Consumer
File references	Toyota Hilux GR-Sport – David Lazarus and Louise McIntosh
Outcome	Upheld
Date	30 August 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider complaints lodged by David Lazarus and Louise McIntosh against a television commercial for Toyota South Africa promoting its Toyota Hilux GR-Sport vehicle.

Description of the advertising

The opening scene in the commercial shows three meerkats surrounded by clumps of vegetation in a sandy area, standing in a row on their hind feet, looking alert. A modified Toyota Hilux erupts onto the scene with a noisy engine and churning a cloud of sand as it swivels around on the sand before eventually parking near the meerkats. A driver wearing sunglasses embarks from the car. He seems surprised to see the animals and takes off his sunglasses and stares at the animals who stare back at him. He nods and the animals nod back. A voice over then states: “*Introducing the new limited edition Hillux GR Sport. Engineered by Gazoo Racing*”, as the wording “*The new limited-edition Hillux GR Sport - Engineered by Gazoo Racing*” appears on the screen.

Complaints

The first complainant (David Lazarus) submitted that:

- The commercial promotes and encourages the irresponsible and illegal driving of the advertiser's vehicles around sand dunes, ignoring the fact that the portrayed action is forbidden by South Africa's environmental laws and regulations relating to coastal areas.
- The extension of the respondent's 'nodding' campaign to include meerkats is also a creative oversight, overlooking the fact that the regulations are designed to protect the flora and fauna in coastal areas.

The second complainant (Louise McIntosh) submitted that the respondent appears to be promoting off road driving that is harmful to nature as the portrayed sand dunes are a natural habitat for small insects and animals.

Response

The Respondent submitted that:

- Its intention was to showcase its product and its advanced suspension in the best light possible and hopes that it had managed to do that without being irresponsible or going against what its brand stands for.
- The commercial was not shot in an environmentally-sensitive area. It was shot in Philippi Sand Mine adjacent to Mitchells Plain near Cape Town, which is an industrial area. The depicted vehicles were driving over the raw materials that will be used for general building, concrete, mortar and plaster applications in the future.
- The tracks on the sand are one of the mine's service roads. The depicted vehicle is following existing tracks even when it is seen going up steeper sand later in the sequence. A Dutch camera angle was used to create drama by tilting it to the side to make the rise appear far more extreme. The proof of this in the shot is that the grass off to the side, appears to be growing diagonally to the left instead of straight up, as it would be expected in nature.
- The intention was not to depict or condone ecologically-irresponsible driving regardless of where the commercial was shot. The main vehicle in the commercial is mostly driving on existing paths and in the few instances where it is travelling over untracked sand, it does not drive over any flora or fauna, just on sand. The vehicle was also not used to blast up, down or through sand dunes.

Application of the Code of Advertising Practice

The following clauses were considered in this matter:

Offensive advertising - Section II, Clause 1

Legality - Section II, Clause 3.3

Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

Clause 3.3 of Section II states:

“Advertisements should not contain anything which might lead or lend support to criminal or illegal activities, nor should they appear to condone such activities”.

According to the Control of Vehicles in the Coastal Zone Regulations, as published in the Government Gazette No. 22960 (21 December 2001), the driving on South African beaches for recreational purposes is restricted. To drive on local beaches, drivers would need to obtain a permit. This does not seem to be disputed.

The advertiser submitted that the commercial was shot in an industrial area and that it went to great efforts in ensuring that it did not drive over any flora or fauna, just on sand even when travelling on untracked sand. The Directorate does not dispute this. The question is not whether the Advertiser actually broke the law – it would appear that it did not. The issue is that the imagery in the advertisement depicts illegal behaviour in a manner that makes it appear glamorous, exciting and as if it is condoned. In addition, this is a behaviour that many off-roaders may not be aware is illegal. One therefore cannot say that no reasonable viewer would emulate the behaviour in the commercial.

In a Mazda 4X4 / Mr J Buirski 3972 (20 August 2002) heard before the old Advertising Standards Authority, pertaining to an issue of vehicles driving at high speed on beaches and sand dunes the ASA Directorate stated that “[t]he Department advised that a scene of a vehicle driving at high speed over a sand dune could create the impression that this is a glamorous and exhilarating activity. This is likely to encourage people to indulge in this activity on dunes in general. The Department further pointed out that the use of vehicles on many beaches is undesirable due to impact on various animals including certain bird species, marine turtles and crabs...”.

The above sentiments also apply to the matter at hand. The Directorate recognises that advertising is a powerful tool that influences perceptions and has duly noted that there is nothing in the commercial to indicate or inform the viewers that the depicted action is just a simulation taking place at a mining site in an industrial area. To the viewer, it looks like the driving is on a beach – and a sufficiently wild beach that meerkats are resident. The Directorate feels that simulating a beach driving scene in a manner that appears to condone such driving sets a negative example for the off-road community and condones illegal behaviour.

Given the above, the Directorate finds that the commercial in its current format is in breach of Clause 3.3 of Section II.

Given that the illegal behaviour condoned by the advertisement relates to an issue about which many people feel strongly – the preservation of South African beaches from off-road drivers and the protection of the environment – the depiction of this activity is also offensive to a sector of the population.

It is therefore also in breach of Clause 1 of Section II.

Sanction

The Advertiser is required to:

- Withdraw the television commercial in its current format;
- The process of withdrawing the commercial must be actioned with immediate effect and completed as soon as reasonably possible; and
- The commercial may not be used again in the future.