

ADVISORY RE AUTOMOBILE ADVERTISING

ASC is increasingly hearing from consumers who see automobile advertising they believe depicts unsafe driving and/or driving at excessive speeds.

In 2006, ASC received over one hundred consumer complaints on the subject of automobile advertising, many of which expressed concern about safety issues. Many complainants volunteered they felt compelled to express their concerns in light of the tragic consequences of street racing incidents frequently reported in the media. The complainants contended that drivers – particularly young drivers – could be tempted to drive in the same way and at the same excessive speeds they saw depicted in some of the television commercials. The common denominator among the complainants' allegations was that these were dangerously "unsafe" messages. Further, these "unsafe" messages were becoming more prevalent, even to the point of becoming standard in automobile advertising, a development the complainants found unacceptable.

When a complaint submitted to ASC raises a *Code* concern involving safety, the complaint is adjudicated by one of ASC's independent, volunteer Consumer Response Councils under Clause 10 (Safety) of the *Code*.

Clause 10 (Safety)

"Advertisements must not without reason, justifiable on educational or social grounds, display a disregard for safety by depicting situations that might reasonably be interpreted as encouraging unsafe or dangerous practices, or acts."

Summaries of upheld cases are reported in ASC's quarterly Ad Complaints Reports (available at www.adstandards.com).

Useful advice for automobile advertisers on how Council has interpreted and applied Clause 10 may be distilled from these summaries of upheld cases. Council acknowledges that automobile advertisers, wishing to favourably and successfully distinguish their product from their competitors', want to demonstrate the performance and

handling ability of their vehicles in a manner that appeals to their target market. Council suggests, however, that these demonstrations can be both memorable and compelling, while still complying with the *Code*.

When asked to determine whether a complained-about automobile advertisement contravenes Clause 10, Council will consider the following questions, among others:

- Does the depiction of the performance, power or acceleration of the vehicle convey the impression that it is acceptable to exceed speed limits?
- Does the depiction of a vehicle's handling ability involve potentially unsafe actions such as cutting in and out of traffic, excessively aggressive driving, or car chases in a residential setting?
- Does the depiction appear realistic or does it appear to be unreal, as in a fantasy-like scenario that is unlikely to be copied or emulated in real life?
- Would it be reasonable to interpret the depicted situation as condoning or encouraging unsafe driving practices?

In addition to these questions, Council will also consider any disclaimer language used in the advertisement, such as "Professional Driver. Closed Course." Council has concluded in many previous decisions that such disclaimers will not likely be sufficient to change the general impression of a commercial that communicates to consumers: "You too can and should drive this way", (and will be able to if you buy the advertised vehicle!).

Attention must be also paid to Clause 1(d) (Accuracy and Clarity) of the *Code*, which provides that disclaimers can be used in advertising to clarify or provide additional information relating to the main message, but cannot contradict more prominent aspects of the message.

This advisory is the first that ASC has issued in recent years on the subject of automobile advertising in Canada. Rather than discourage creative advertising, the principal purpose of this advisory is to help and encourage advertisers to develop creative and effective automobile advertising that also complies with the *Code*.

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