



**ADVERTISING
STANDARDS
BOARD**

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Case Report

1	Case Number	0061/17
2	Advertiser	KIA Automotive Australia
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	22/02/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(c) Driving practice that would breach the law

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement promoting Kia's 2016 Plate Clearance Sale features different models of Kia's driving on various roads while a voiceover describes the associated offers. The Picanto 5-door is shown driving with front lights on.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

The ad displayed a car, a Kia Picanto, with its foglights on during clear weather which is an offence in Qld, and is against road rule 2017 in Victoria. It is advised against by the NRMA.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

These are not Fog lights. But can understand how the consumer can draw these conclusions. The Picanto is featuring a large [sic] daytime running lights.

THE DETERMINATION

The Advertising Standards Board (Board) was required to determine whether the material before it was in breach of the Federal Chamber of Automotive Industries Advertising for Motor Vehicles Voluntary Code of Practice (the FCAI Code).

To come within the FCAI Code, the material being considered must be an advertisement. The FCAI Code defines an advertisement as follows: "matter which is published or broadcast in all of Australia, or in a substantial section of Australia, for payment or other valuable consideration and which draws the attention of the public, or a segment of it, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct".

The Board then considered whether that advertisement was for a motor vehicle. Motor vehicle is defined in the FCAI Code as meaning: "passenger vehicle; motorcycle; light commercial vehicle and off-road vehicle". The Board determined that the Kia Picanto was a Motor vehicle as defined in the FCAI Code.

The Board determined that the material before it was an advertisement for a motor vehicle and therefore that the FCAI Code applied.

The Board noted the complainant's concerns that the advertisement features a Kia Picanto driving in clear weather with its fog lights on which is against the Road Rules.

The Board then analysed specific sections of the FCAI Code and their application to the advertisement.

The Board considered clause 2(c) of the FCAI Code. Clause 2(c) requires that: Advertisements for motor vehicles do not portray ...driving practices or other actions which would if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation.

(examples: illegal use of hand-held mobile phones or not wearing seat belts in a moving motor vehicle. Motor cyclists or their passengers not wearing an approved safety helmet, while the motorcycle is in motion]."

The Board noted that this television advertisement depicts different models of Kia vehicles being driven on various roads while a voiceover promotes their 2016 plate sale.

The Board noted the advertiser's response that the lights used in the advertisement are daytime running lights. The Board noted the advertiser's webpage for the Kia Picanto which shows an image of these lights,

http://www.kia.com/au/cars/picanto.html?ppc=1&gclid=CNTVrdazotICFRQJvAodm_IAaQ

&gclsrc=aw.ds, and considered that these are the lights shown being used in the advertisement.

The Board noted that the Australian Road Rules prohibit fog lights being used in daylight but there is no such prohibition on the use of daytime running lights.

The Board noted advice provided by the NRMA regarding the correct uses of vehicle lights <http://www.mynrma.com.au/motoring-services/buy-sell/buying-advice/features/fog-lights.htm>. The advice states the differences between the different styles of vehicle lights.

Fog lights are: “Designed to improve visibility of the road directly ahead of the vehicle in fog or hazardous weather conditions where visibility has been reduced. The Australian Road Rules state that they are not to be used at any other time.”

Driving lights: “Have a powerful beam that projects well down the road and are used to supplement high beam, especially when driving in country areas and should be wired to only operate when high beam is used.”

Daytime running lights (DRL’s): “are bright, white, forward-facing lights that improve the forward conspicuousness of vehicles in the daytime. They are usually activated automatically when the engine is running and must be wired so they turn off at night time.

Based on the above information and consistent with a previous determination for a similar complaint about daytime running lights being used, 0091/13, the Board considered that the advertisement does not depict a driving practice that would breach any law as confirmed by the advertiser, that the lights depicted in the current advertisement are daytime running lights.

The Board determined that the advertisement did not breach clause 2(c) of the FCAI Code.

Finding that the advertisement did not breach the FCAI Code on any grounds, the Board dismissed the complaint.