



## **CASE REPORT**

1. Complaint reference number	556/08
2. Advertiser	Mazda Australia Pty Ltd
3. Product	Vehicles
4. Type of advertisement	Print
5. Nature of complaint	FCAI - Speeding
6. Date of determination	Wednesday, 21 January 2009
7. DETERMINATION	Dismissed

## **DESCRIPTION OF THE ADVERTISEMENT**

This print advertisement for a Mazda 6 vehicles shows two pictures. The left picture has a man leaning on a red vehicle with the word 'How a Mazda 6 looks' below the picture. The picture on the right has the same man leaning on a red vehicle which has the number 6 on the side and on the windscreen - it is portrayed as a racing car. The words 'How a Mazda 6 feels' appear below this image. Other features are described in smaller type in each picture below the larger wording.

## **THE COMPLAINT**

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

*I write to lodge a complaint about an advertisement that violates the Federal Chamber of Automotive Industries (FCAI) Voluntary Code of Practice for Motor Vehicle Advertising. This Code seeks to support road safety efforts by providing “guidance to advertisers in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety”. The Mazda 6 press advertisement which breaches this Code is currently being displayed. It is a double page feature which shows a man standing beside a Mazda 6 with the words “How Mazda 6 Looks” on the left page. The right page shows a man standing beside a Mazda 6 painted like a racing car with the words “How Mazda Feels”. We believe that this ad is in direct conflict with accepted road safety messages because it depicts the Mazda as a vehicle that performs like a racing car. I therefore ask the Advertising Standards Board to demand the immediate and permanent withdrawal of the Mazda 6 advertisement referred to above, and to discourage similar depictions of vehicles in advertisements. In the event that these advertisements are not currently being used, a determination is requested so that similar advertisements can be discouraged in the future.*

## **THE ADVERTISER’S RESPONSE**

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

*We request that the following matters be taken into account by the Board in its determination of this complaint in relation to the Advertisement.*

*1. The complaint is made under section 2(b) of the FCAI Voluntary Code of Practice for Motor Vehicle Advertising (the FCAI Code), which prohibits advertisements for motor vehicles that ‘portray... [p]eople driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast’. The two vehicles depicted in the advertisement are stationary and are not being driven. Accordingly, the Advertisement does not actually ‘portray... people driving...’, as stated in clause 2(b) of the FCAI Code and therefore clause 2(b) does not actually apply to the Advertisement although we understand that the Board*

*will consider this advertisement with reference to Section C in its entirety.*

*2. In the ASB's correspondence to Mazda, the ASB suggests that we give consideration to the broader requirement in clause 2 of the FCAI Code, which requires that advertisers ensure that advertisements for motor vehicles not portray unsafe driving, including speeding or other practices which would contravene road safety regulations, if they were to take place on a road or road-related area. We submit that the Advertisement does not contravene clause 2 of the FCAI Code for the following reasons:*

*(a) Neither the text nor the images in the Advertisement make any express nor implied reference to excessive speed (or indeed to speed at all) or other unsafe driving practices.*

*(b) The focus of the Advertisement is not on speed. The focus of the Advertisement is on the look and feel of the Mazda6. In particular, the driver's experience of driving a Mazda6 - the 'feel' of driving the Mazda6. The Advertisement attempts to illustrate and conceptualise this point with two side-by-side images of the Mazda6 - one depicting the 'look' and one depicting the 'feel' of the Mazda 6. For example, as the text below the image of the Mazda6 bearing the 'sports decals' indicates, the Dynamic Stability Control, responsiveness and the latest safety features included with the Mazda6 and its sporty styling mean that when you drive a Mazda6 you will feel like you are driving a vehicle with the high levels of safety and performance that one expects of a professional sports vehicle.*

*(c) Further to point (b) above, the Advertisement includes an element of fantasy. There are no other cars on the road or pedestrians on the footpaths. The man standing next to the Mazda6 in each picture appears to be contemplating or dreaming about the look and feel of the vehicle. As the text accompanying the images suggests, the driver is dreaming or imagining the vehicle to be a professional sports vehicle, as the technology used in the vehicle makes it feel like one and its styling makes it look like one.*

*(d) The mere fact that one of the Mazda6 vehicles is depicted in the Advertisement bearing 'sports decals' does not equate to the portrayal of speeding or other unsafe driving practices.*

*3. In the ASB's correspondence to Mazda, the ASB suggests that we also give consideration to the requirement in clause 3 of the FCAI Code, which requires that advertisers ensure that 'scenes of motor sport, simulated motor sport, or vehicle testing or proving ....are clearly identifiable as part of an organised activity of a type which would normally be permitted in Australia and that they also confirm to general safety requirements associated with such activities'. The mere fact that one of the Mazda6 vehicles is depicted in the Advertisement bearing 'sports decals' does not equate to the depiction of a scene of 'motor sport, simulated motor sport, or vehicle testing or proving', as stated in clause 3 of the FCAI Code and therefore clause 3 does not actually apply to the Advertisement.*

*4. Finally, the FCAI Code is, as stated in the Explanatory Notes to the FCAI Code, directed at ensuring that advertisers take 'a responsible approach to advertising for motor vehicles' and 'ensure that advertising for motor vehicles does not contradict road safety messages or undermine efforts to achieve improved road safety outcomes in Australia'. We note that we are committed to compliance with the Code and the responsible advertising of its vehicles consistent with road safety messages.*

*In light of the above, we submit that the Advertisement does not contravene clause 2(b) of the FCAI Code or any other provision of the FCAI Code (including the objectives and guidelines of the FCAI Code). For the same reasons, the Advertisement does not contravene any provisions of the AANA Code of Ethics. Accordingly, we submit that the complaint ought to be dismissed.*

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code") and the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (the "FCAI Code").

The Board considered the application of Section 2 of the FCAI Code. The Board noted that the provisions of Section 2 apply where an advertisement portrays certain driving practices. The Board noted that this advertisement depicts the vehicle in stationary positions and does not actually depict any driving. The Board considered that the mere depiction of the vehicle in the manner of a race car

did not suggest or encourage excessive speeding. Accordingly, the Board determined the advertisement did not depict any unsafe driving or excessive speeding and found no breach of Section 2. The Board noted that the depiction of a car with sports decals does not of itself suggest excessive speed or unsafe driving. The Board also noted that section 3 of the FCAI Code does not prohibit the depiction of a vehicle with sports decals. The Board found no breach of Sections 3 or 4 of the FCAI Code.

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