



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0044-21
2. Advertiser :	Volvo Car Australia
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	10-Mar-2021
6. DETERMINATION :	Upheld – Modified or Discontinued

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(d) Fatigue-drugs-alcohol
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This television advertisement features various scenes of parents taking care of children, running around after them etc. The advertisement then shows a woman driving a car. She looks tired and seems to begin to fall asleep. The car is shown to edge towards the oncoming lane. The vehicle engages Lane Keeping Aid and automatically corrects itself back into her lane, avoiding an oncoming truck. The woman wakes up. Text on screen states "The car that looks after you, like you look after others".

THE COMPLAINT

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

This is disturbing and will lead to people driving when tired and relying on technology to save them. Driving tired is as bad as driving drunk - this ad does not meet community standards

It goes against the TAC warnings of not driving when tired or having a power nap if you are tired. The commercial is telling people they can rely on a technical feature of a car to help them stay in their lane if they drift while falling asleep...

The ad infers it is ok to drive tired (there is a small written disclaimer on the screen) . Statistically tired drivers make up 20% of all fatal crashes



THE ADVERTISER'S RESPONSE

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

We refer to the above complaints received by the Advertising Standards Board in connection with our 30 second television advertisement of the XC60 model, featuring Volvo's Lane Keeping Aid Technology ("the Advertisement"). We respond to both complaints referred to above as they relate to the same Advertisement.

Volvo Car Australia Pty Ltd ("Volvo Car Australia") takes its responsibility as an advertiser very seriously and makes extensive efforts to understand and respond appropriately to community concerns and issues, including by having in place stringent review and approval processes.

We would also like to emphasise that Volvo Car Australia takes extremely seriously its commitment to the AANA Code of Ethics ("AANA Code") and the FCAI Voluntary Code of Practice for Motor Vehicle Advertising ("FCAI Code") and is fully aware of the potential impact of its advertising on the community as a whole. Accordingly, all our advertising, including the Advertisement, are carefully reviewed prior to publication. In the present case, the Advertisement was submitted to ClearAds for review with ClearAds Number G8SYVMVA. The classification provided was G.

Importantly Volvo Car has built its reputation across the globe as a leader in the field of car safety, with a focus on protecting the people inside and around our cars. Volvo Cars is committed to its safety vision that no one should be seriously injured or killed in a new Volvo car. The Lane Keeping Aid Technology promoted in the Advertisement is part of the suite of driver assistance systems at the forefront of our commitment to this cause. The systems and other safety technologies are the result of our safety team's data and science driven approach to technology development collected from real life accident data. Volvo Cars is intimately aware of the realities of road accidents and fatalities, including the role that speeding, intoxication and distraction (including fatigue) plays. Unlike speeding and drink driving, there are no laws regulating driver fatigue. We are actively engaged in developing technologies to combat these issues as well as contributing to discussions about encouraging better driver behaviour. All in the spirit of saving more lives.

Volvo Car Australia does not encourage anyone to drive in a reckless and/or unsafe manner. Accordingly, we respectfully disagree with the complainants' characterisation of the Advertisement.

We have considered the complaint and the Advertisement in question in light of the provisions of the AANA Code and the FCAI Code. It is noted that the nature of the complaints relates to the FCAI Code.



We have carefully considered the AANA Code and the FCAI Code and assessed their provisions against the content of the Advertisement. We submit that the Advertisement does not breach the AANA Code or the FCAI Code on any of the grounds set out in the same.

The Advertisement

The Advertisement is a television commercial produced by Volvo Cars to promote the XC60 and its safety technology, with focus on the Lane Keeping Aid technology. The Advertisement depicts global campaign footage produced in Sweden and aired in Australia and was part of Volvo Cars' broader "a million more campaign" highlighting Volvo Car's role in the introduction of the 3-point safety belt and our ambition through new and existing safety features to save a million more lives "for everyone's safety". The Advertisement was produced by Forsman & Bodenfors and was filmed under controlled conditions, with permissions for filming provided by the Swedish Traffic Authorities. The vehicle depicted was, at all times, driven within the legal speed limit.

The underlying concept driving the Advertisement is that Volvo is "the car that looks after you, like you look after others" and is "for everybody's safety". In promoting this concept, the Advertisement depicts scenes, all of which are part of the realities of everyday life, illustrating the round the clock work that parents undertake in meeting the demands of everyday life and protecting their children from accidents. The purpose of the Advertisement was to combine premium film craft, relatable charm and humour, balancing scenes of exasperated parents caring round the clock for their twin children, child proofing the house and running daily errands, to strengthen the core message and the overall thought behind this campaign that Volvo Cars understands that great parents can sometimes be distracted drivers.

Indeed, the Advertisement commences with the song lyrics "every morning at half past four" whilst showcasing scenes illustrating the daily commitments parents make, and the chaotic rhythms of looking after children before the working day commences. As the lyrics state "its hard times in the middle my love, its hard times in the middle". Volvo Car's message indeed recognises that being a parent can sometimes mean juggling many demands at once but that Volvo is present through its safety technology and driver assistance systems (including the featured Lane Keeping Aid technology) to support them. By showing these situations and reflecting the concerns and care of the parents, Volvo Cars wants to show the importance of also protecting the parents and the family, which is also the purpose of Volvo Cars' safety systems.

The contested part of the Advertisement can essentially be described as follows. The woman who plays the mother in the Advertisement drives a Volvo XC60 on a straight road. The woman briefly shuts her eyes while driving and you can see the car heading towards the middle line while a truck approaches in the opposite direction. The car steers with the help of its automatic lane assist, Lane Keeping Aid, back into the lane and the woman looks up just as the truck is passing by. Importantly, in the lead up and during the entirety of this part, the following warning/information text appears at the bottom of the screen:



“Lane Keeping Aid is driver assist technology and not a substitute for the driver’s control over the vehicle. The driver remains responsible for the vehicle.”

Lane Keeping Aid technology is a driver assistance system that monitors a driver’s position on the road, adding convenience and safety to motorway driving. In certain driving conditions, if a driver is about to cross a lane marking without using the indicator, Lane Keeping Aid will gently steer the vehicle back into the lane. If this steering intervention is not enough or a driver keeps steering across the lane markings, the driver will be alerted with vibrations in the steering wheel.

Importantly, Lane Keeping Aid is not a substitute for the driver, but rather a driver assistance system. This is indeed clearly identified in the Advertisement with a prominent disclaimer mentioned above. This disclaimer remains prominently on screen for a total of approximately 17 seconds, ensuring that viewers are aware of the functionality of the technology.

The Advertisement's focus is not to depict fatigue driving or any in any way condone it. Volvo Cars places safety at its core and has built a worldwide reputation for so doing. The focus is rather to illustrate by depicting everyday scenes of the realities of caring for a young family, that the XC60 is a safe vehicle which looks after them and their family and is for everybody's safety. The Advertisement in fact shows how dangerous it can be to drive when you are tired, or for some other reason drop your gaze from the roadway for a short time, and how easily an accident can occur. This is also precisely why the warning, which is shown in the context of the sequence, emphasises that the driver is always responsible for driving the vehicle.

We note further that the Ad Standards Community Panel (“the Panel”) had to consider similar matters in Case Number 0454/18 in respect of a television commercial placed by Ford Australia which illustrated the use of its Pre-Collision Assist with Pedestrian Detection technology. In that case the Panel determined, among other matters:

that the interpretation of most members of the community would differ from the complainant's interpretation;

2. “it is reasonable for a car manufacturer to demonstrate safety features on their vehicle”.

The Advertisement clearly is not suggesting to the viewer:

that a motor vehicle ought to be driven in violation of road rules/laws; or

(b) that the motor vehicle substitutes poor driver behaviors, again noting the use of prominent disclaimer wording set out above which reinforces that this is not the case.



For the above reasons, we submit that the Advertisement is not in breach of the AANA Code or the FCAI Code. If you require any further assistance or information, please do not hesitate to contact me.

THE DETERMINATION

The Ad Standards Community Panel (Panel) was required to determine whether the material before it was in breach of the AANA Code of Ethics or the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (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 Panel considered whether the 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 Panel determined that the Volvo vehicle depicted was a Motor Vehicles as defined in the FCAI Code.

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

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

FCAI Clause 2(d) Advertisers should ensure that advertisements for motor vehicles do not portray...People driving while being apparently fatigued, or under the influence of drugs or alcohol to the extent that such driving practices breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast dealing directly with road safety or traffic regulation.

The Panel noted the complainants' concerns that the advertisement promotes driving while fatigued and suggests that people rely on technology to keep them safe.

The Panel noted the advertisement includes the disclaimer:
"Lane Keeping Aid is driver assist technology and not a substitute for the driver's control over the vehicle. The driver remains responsible for the vehicle."

The Panel noted the advertiser's response that the disclaimer ensures that viewers are aware that the Lane Keeping Aid is not a substitute for a driver, and the focus of the advertisement is not to depict fatigued driving or condone it.



The Panel noted that it had previously considered a similar issue in case 0291-19, in which:

“The Panel noted that Cambridge Dictionary defines fatigue as “extreme tiredness”. The Panel noted that fatigue is often considered to be a symptom of a larger medical issue, and the word is not typically used to reference a mild degree of tiredness, such as one may experience in the mornings. The Panel noted that clause 2(d) of the Code includes both fatigue and being under the influence of drugs or alcohol. The Panel considered that the inclusion of both under this clause is indicative of the FCAI meaning fatigue referencing a substantial degree of exhaustion, rather than just being tired. The Panel considered that yawning in the mornings is something that most members of the community would be able to relate to, and considered that yawning alone is not of itself a depiction of a level of fatigue that would inhibit safe driving. The Panel determined that the advertisement did not portray a person driving while fatigued or under the influence of drugs or alcohol and did not breach Clause 2(d) of the FCAI Code.”

Unlike case 0291-19, the Panel considered that in the current advertisement the woman is seen to be displaying a level of fatigue which would inhibit safe driving. The Panel considered that the depiction of the woman was consistent with the depiction of people in community awareness commercials aimed to highlight the dangers of driving while fatigued and it would be a depiction of a substantial degree of exhaustion. The Panel considered that the advertisement depicted the woman losing focus and steering to the wrong side of the road, and that the features of the vehicle were what prevented an accident from occurring.

The Panel noted that it is reasonable for the advertisement to highlight an important safety feature of the vehicle, however considered that there are ways this could have been advertised without depicting someone driving while being apparently fatigued.

The Panel determined that the advertisement did portray a person driving while being apparently fatigued.

FCAI Clause 2(d) conclusion

The Panel considered that the advertisement did breach Clause 2(d) of the FCAI Code.

Code of Ethics Section 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel noted the scene near the start of the advertisement where there is a baby crying on the change table, with the parents standing away from it while the mother hands another baby to the father.

The Panel noted that the Child Accident Prevention Foundation of Australia recommends constant supervision for infants while on change tables, noting that



“Injuries usually occur when a carer turns or moves away from the table to get something. Babies can fall when you least expect it. Shocked carers often report that the baby usually lies quietly and has never rolled over before the accident.”
(<https://www.kidsafensw.org/imagesDB/wysiwyg/ChangeTableSafety2013.pdf>).

The Panel noted that the father’s back is turned away from the baby, and that he is distracted by taking the other child. The Panel considered that while this may be reflective of everyday practice in busy households, advertisers should take care to demonstrate best practice when it comes to infant safety.

The Panel noted that although the infant is quite young and may not be capable of rolling over yet, leaving a baby unsupervised on a change table would be considered unsafe by most members of the community and contrary to advice on the safe use of change tables.

Code of Ethics Section 2.6 conclusion

The Panel considered that the advertisement did contain material contrary to Prevailing Community Standards on health and safety and determined that it did breach Section 2.6 of the Code.

Conclusion

Finding that the advertisement did breach Cause 2(d) of the FCAI Code and Section 2.6 of the AANA Code of Ethics, the Panel upheld the complaints.

THE ADVERTISER’S RESPONSE TO DETERMINATION

We refer to your letter dated 23 March 2021, which advised us of the Board's determination that the advertisement the subject of the above complaint (the Advertisement) breached the FCAI Code.

On a no admissions basis, we have decided to undertake the following actions in light of the Board's determination:

1. To immediately remove the Advertisement from all forms of television (Free to Air and Pay TV) and from social channels.
2. Alternative edits of the television and social assets will continue to be in market until the end of the campaign period. These edits will not contain the scenes identified as being in breach (Clause 2(d) of the FCAI Code and Section 2.6 of the AANA Code of Ethics).

Volvo Cars is synonymous with safety and has been a leader in safety since our inception. We have led the industry by introducing lifesaving systems well before they were available in other automotive brands or indeed mandated by authorities around the world. Three-pointed safety belt and Side Impact Protection System are just a couple of these lifesaving systems, now standard items in all motor vehicles and are



Volvo inventions that have been acknowledged as having saved over a million of lives globally. Technology on display in our current television advertisement is yet another system designed to save lives. We understand that we cannot control what people do in or prior to getting behind the wheel of their motor car, but as an automotive company that puts people and peoples wellbeing at the centre of everything we do, we provide driver aids designed to keep the driver, the occupants of their vehicle and other road users safer.

We trust that the above actions are satisfactory.