



Ad Standards Community Panel
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Case Report

1. Case Number :	0047-21
2. Advertiser :	KIA Automotive Australia
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	10-Mar-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(a) Unsafe driving

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a tennis court, with a large screen being shown and a 3D car being assembled on the court. The car takes on a solid quality when assembled, and both the on-screen car and on-court car perform a burnout.

THE COMPLAINT

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

One example depicts a vehicle doing what I think is described as a 'wheelie' on Centre Court. All what I would describe as hoon driving. At the same time there has been a dramatic increase in the amount of black tyre rubber on the streets in my neighbourhood. There more than enough idiots on the road without the encouragement of this totally inappropriate and reprehensible by a motor vehicle manufacturer.

As already indicated above the depiction of what can only be called 'hoon driving' sets a very poor example and I believe is responsible for the increase in hoon behaviour in my area over the last week.



which I find quite disturbing due to every one else doing burnouts, are seen as Hoons and their cars confiscated or pounded. On the news tonight it was suggested that the confiscated card will be used for car safety commercials. Can you see why it worries me having that commercial on TV, is that every one who buys a KIA SUV will do burnouts with it. Maybe another KIA SUV commercial, should be considered.

The actions of the vehicle in the superimposed image breaks Victorian state laws.

THE ADVERTISER'S RESPONSE

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

We refer to your letter of 24 February 2021 regarding three (3) complaints received by Ad Standards concerning a Kia Motors Australia's (Kia) program integration piece during the Australian Open 2021 Broadcast (Advertisement).

The complainants allege that the Advertisement raises issues under Section 2 of the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (Code).

Kia takes compliance with the Codes very seriously.

For the reasons set out below, Kia disagrees the Advertisement infringes Section 2 of the Code or any other section of the Code.

Background to the Advertisement

The Advertisement was created to promote the Kia Sorento (Sorento) which is part of the Kia SUV range.

The Advertisement is not a television commercial. It is an augmented reality billboard designed to promote Sorento as part of the Australian Open 2021 broadcast sponsorship in conjunction with Channel 9.

The Advertisement draws on the themes of movement and excitement associated with the Australian Open and grand slam tennis tournaments. It is completely CGI and was designed using 3D CAD files. No part of the Advertisement was filmed live using an actual Sorento.

The Advertisement is intended to target a broad range of consumers across various demographics and is presented in a way to engage the viewer through the use of fantasy and creativity during the Australian Open 2021.



The Advertisement was on broadcast in all States and Territories of Australia since 12 February 2021 during the duration of and for the Channel 9 broadcast of the Australian Open only. It is no longer live.

The Advertisement

The Advertisement opens with a live downward looking view of the centre court of Rod Laver Arena in Melbourne. The background music of the Advertisement is the song "Dark Fantasy" performed by Kanye West featuring Teyana Taylor. The opening words are "Can we get much higher? So high" As the song plays, a series of black circles begin to appear from the ground and expand outwards. A vision of the screen then appears over the crowd giving the appearance of a large television screen. The screen begins demonstrating parts of the Sorento as it comes together. The parts then begin to lower and appear to leave the screen heading downwards. At the same time, other parts of the vehicle appear from the middle of the centre court and rise upwards. The screen then disappears leaving the parts of the vehicle floating in the air. While floating the parts come together and form the Sorento. The Sorento then begins to slowly spin in the air. The screen over the crowd reappears showing the front of the Sorento and then drops on the ground. Simultaneously the floating Sorento appears to drop on centre court.

While the vehicle is 'on centre court' the screen gives the impression that the Sorento is being filmed live.

The Sorento begins to accelerate and spin in a clockwise formation and throw gravel. Once the Sorento has completed a 360-degree turn it remains in a neutral position. The screen demonstrates the Kia logo situated on top of the tagline "Movement that inspires" and the song fades out with the words "I fantasised 'bout this back in Chicago".

Importantly the Advertisement is not a TVC but rather an augmented reality billboard designed to promote Sorento. This forms part of the Australian Open broadcast sponsorship on Channel Nine.

The complaints

Kia takes compliance with the Codes very seriously. Kia considers the Advertisement does not depict conduct which is in contravention of the Codes and submits the complaints should be dismissed.

*Depiction of unsafe driving or unsafe driving that would breach road rules
The Advertisement does not depict unsafe driving or driving that would breach road rules in contravention of the Code.*

Clause 2 of the Code provides that "the FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways". The advertisement clearly depicts the use of fantasy and self-evident exaggeration. The



purpose of the activity shown in the Advertisement was to promote the Sorento in an exciting and engaging way using fantasy and creativity. The use of fantasy and self-evident exaggeration in the Advertisement does not contradict, circumvent, or undermine the provisions of the Code.

Clause 3 of the Code provides that advertisers may make use of scenes of motor sport, simulated motor sport, or vehicle testing or proving, provided that such scenes are clearly identifiable as part of an organised activity of a type which would normally be permitted in Australia and that they also conform to general safety requirements associated with such activities.

There is no suggestion in the Advertisement that the driving shown is associated with normal on-road use of motor vehicles.

It is inconceivable that a Sorento or any Kia vehicle would be allowed to be driven onto a tennis court during a match.

And all images are graphically enhanced and superimposed onto the screen. The moving images shown are emphasised to give the impression the vehicle is 'cool' and 'edgy' and appeal to a wide audience. This contrasts with a vehicle which is static or not moving.

There are no pedestrians or other cars in the Advertisement.

It would be clear to reasonable viewers that the Advertisement is not real but an attempt to engage through creative means.

Regarding the complainants' specific concerns that the Advertisement promotes reckless and dangerous driving, including encouraging drivers to attempt the manoeuvres shown in the Advertisement, we note the nature of the Advertisement and the combination of the above elements makes it evident the Advertisement is clearly intended to promote the Sorento in a creative way. Accordingly, reasonable viewers would consider the manoeuvres in the Advertisement to not be dangerous or that the vehicle is moving in a way which would encourage unsafe driving.

Considering these factors, we respectfully submit that the Advertisement does not and could not be considered by any reasonable person to encourage or condone unsafe copycat behaviour in breach of the Code.

Other considerations under the Code

Kia notes that in addition to considering specific issues raised by the individual complainants, the Community Panel will also review the Advertisement in its entirety against the Code.

Whilst Kia considers the Advertisement should be assessed in accordance with clause 3 of the Code that it is creative and engaging. It does not breach clause 2 of the Code.



The driving is not menacing, aggressive or “hooning”.

AANA Code of Ethics not relevant for consideration

Kia notes that, under the Motor Vehicle Advertising Code Practice Note, advertisements for motor vehicles which raise issues or complaints concerning safety are to be determined according to the Code as opposed to the AANA Code of Ethics. Accordingly, Kia has not dealt with the AANA Code of Ethics in its response.

THE DETERMINATION

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

The Panel noted the complainants’ concerns that the advertisement depicts the vehicle doing a “burnout” which is inappropriate and promotes unsafe driving.

Is this an advertisement for a motor vehicle?

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 Kia Sorento was a Motor Vehicle 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.

Clause 2(a): Advertisements for motor vehicles do not portray ...unsafe driving, including reckless or menacing driving that would 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 with road safety or traffic regulation, if such driving were to occur on a road or road-related area, regardless of where the driving is depicted in the advertisement.

The Panel noted the FCAI Code provides the following guidance:

“The FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles. However, such devices should not be used in any way to contradict, circumvent or undermine the provisions of the FCAI Code.”

The Panel considered that the advertisement was highly stylised and fantastical, by showing a 3D image of the vehicle being assembled mid-air and then appearing to become a real vehicle.



The Panel considered that the advertisement was clearly in the context of a fantasy scenario. The Panel considered that the advertisement was clearly computer-generated and an unrealistic scene that most people would understand was not filmed on open, public streets; and noted that the driving practices shown in such exaggerated scenarios are not always aligned with domestic road rules.

The Panel considered that the driving practice depicted in the advertisement was highly fantastical and not appropriately considered realistic behaviour which would breach any Commonwealth law or the law of any State or Territory.

Clause 2(a) conclusion

The Panel determined that the advertisement did not breach Clause 2 (a) of the FCAI Code.

Conclusion

Finding that the advertisement did not breach any other section of the FCAI Code, the Panel dismissed the complaints.