



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0048-21
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
FCAI Motor Vehicle Advertising Code\2(b) Breaking the speed limit

DESCRIPTION OF ADVERTISEMENT

This television advertisement depicts a vehicle being driven at night, in the rain, on a racetrack.

THE COMPLAINT

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

There is a code which prohibits motor vehicles being driven at excessive speed in ads. This ad is the worst of its type. The Kia Carnival is a family oriented people mover used mainly to transport a large number of passenger i.e. a couple with a number of children. To use a race track to demonstrate its capability in the form of excessive speed is shameful for the type of vehicle

The car was very obviously travelling at excessive speed in rainy conditions. I found it particularly offensive because it is a family vehicle that generally is bought to transport children or larger families. I understand that advertisers should not show driving that would be illegal on regular roads. I believe that the speed that this car was travelling at was in excess of 110 kmph and was made worse by being shown in rainy conditions. I think the purpose of the ad was to show how quiet it is inside while on the



outside it sounded like a race car. The other thing is that this type of car cannot naturally handle in any way like a low slung performance or race car. It gives the viewer a false impression of its capabilities and could put buyers and their families in danger in the future if they try to mimic the actions of the car as it was advertised.

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, concerning the complaint received by Ad Standards in respect of Kia Automotive Australia's (Kia) television advertisement for the Carnival model of vehicle (Advertisement).

The complainant alleges 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 Code very seriously.

For the reasons set out below, Kia disagrees that 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 Carnival (Carnival).

The purpose of the Advertisement is to showcase the new, modern looking Carnival and to illustrate the improved handling and capabilities of the Carnival under controlled conditions.

The Advertisement depicts the Carnival on Eastern Creek Raceway, New South Wales at night-time in the rain. Although the Carnival remains the perfect option for those who need the 8-seat practicality with excellent safety and handling dynamics in variable driving conditions (i.e. at night-time in the rain), it is also a modern, capable vehicle to drive. This is highlighted by the prominently placed super in the Advertisement which states "Vehicle driven by a professional racing driver, and dad of four."

The Advertisement was created to be broadcast to coincide with the Australian Open 2021. The Advertisement draws on the themes of high level professionalism and elite athleticism associated with the Australian Open and grand slam tennis tournaments in its depiction of a professional racing driver driving the Carnival to exhibit its improved handling and capability.

The Advertisement is intended to target a broad range of consumers across various demographics.



The Advertisement has been broadcast in all States and Territories of Australia since 8 February 2021. The Advertisement has been broadcast online on Kia's YouTube and social channels since 8 February 2021.

The Advertisement

The purpose of the Advertisement is to showcase the improved handling and capabilities of the Carnival and, accordingly, the Carnival is shown on a race track at night-time in the rain to demonstrate variable driving conditions.

The Advertisement opens with a shot of Eastern Creek Raceway from the perspective of the driver. The outline of the Carnival is then shown, with the front lights of the vehicle illuminated. It is clear that it is raining heavily and that it is night-time. The rear of the vehicle is then shown, with the sleek new-look rear lights illuminated. The remainder of the Advertisement switches between showing different angles of the new and improved exterior and interior of the Carnival, and showing the race track and driving conditions from the driver's perspective.

The interior shot of the Carnival shows the speedometer of the vehicle and indicates that the vehicle is travelling at 80 km/h. Kia confirms that all times during the Advertisement the Carnival is shown to be travelling within the legal speed limits in the jurisdictions in which the Advertisement was broadcast.

A low angle, close up shot of the Carnival coming around the bend of the race track at 00:19 of the Advertisement demonstrates the Carnival model's traction and superior handling on the track that appears partially wet. This shot is followed by a blacked out screen and the tagline "Why haven't you heard of a GUV until now?" The Carnival returns to the screen, driving quickly (but not over the speed limit) along the straight of the race track. The screen is then blacked out again and the tagline "This is Kia" appears, followed by the Kia logo situated on top of the tagline "Movement that inspires".

The number plate "CARNVL" indicates the model of vehicle.

The Advertisement was shot under controlled circumstances using professional race drivers Ben Toya and Harry Bates on a closed race track, Eastern Creek Raceway. There are no other cars or pedestrians appearing on or near the race track and there are no markings on the race track that could be considered analogous with markings that would appear on an ordinary road.

In order to film the Advertisement under the requisite testing conditions on the closed race track, the production company was required to obtain relevant permits, including permission from Eastern Creek Raceway for the exclusive hire of the race track. From 00:03 to 00:06 of the Advertisement, a prominently featured super is displayed which states "Filmed under controlled conditions on a closed location." From 00:13 to 00:16 of the Advertisement a further prominently featured super is displayed which states "Vehicle driven by a professional racing driver, and dad of four."



The complaint

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

The Advertisement does not depict unsafe driving

The Advertisement does not depict unsafe driving in contravention of clause 2(a) of the Code.

Clause 2(a) of the Code provides that advertisers should ensure that advertisements of motor vehicles do not portray unsafe driving, including reckless or menacing driving. The driving, whilst dynamic and skilful, is not reckless or menacing, nor does it show the Carnival being driven at an “excessive” speed as argued by the complainant. The driver is at all times in complete control of the vehicle and the turns on the race track are executed in controlled manner.

The intention of the Advertisement is not to promote the speed capacity of the Carnival, but rather to emphasise the handling capabilities of the vehicle. Although the Carnival appears to be going quickly, there is no actual indication that the speed of the vehicle is above 80km/hr (as shown on the vehicle’s speedometer) and Kia considers that speed at which the vehicle is travelling is appropriate for the conditions shown. Although at points in the Advertisement the vehicle’s acceleration is audible, there is nothing over-the-top or reckless about this depiction. The corner sequence at 00:19 of the Advertisement is an appropriate style of driving in a controlled race track environment.

2. The Advertisement does not depict driving in excess speed limits

The Advertisement does not depict people driving at speed in excess of speed limits in contravention of clause 2(b) of the Code.

As set out above, at all times during the Advertisement the Carnival is shown to be travelling within the legal speed limits in the relevant jurisdictions in which the Advertisement was broadcast. At 00:16 of the Advertisement, the dashboard of the Carnival is visible and the speed is shown at 80 km/h, being well within what is considered an acceptable speed for safe driving.

3. The Advertisement does not depict driving that would breach road safety or traffic regulations

The Advertisement does not depict driving which would, if it was to take place on a road or road-related area, breach any road safety or traffic regulation in contravention of clause 2(c) of the Code.

As set out above, the Carnival is within legal speed limits at all times during the Advertisement and, accordingly, no speed limits imposed by road safety or traffic regulations are shown to be exceeded in the Advertisement.



There is otherwise no conduct shown in the Advertisement which could reasonably be considered to be in breach of any road safety or traffic regulation.

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 driving at excessive speeds in rainy weather.

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 Carnival 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 that the sounds of the engine and the movement of the camera do make it appear as though the car is driving very fast. The Panel noted the advertiser's response that the vehicle's speedometer shows a speed of 80km/h and that such a speed is not unsafe for the road and conditions.

The Panel considered that the sound of the engine revving adds to the impression of speed, however considered that the acceleration being audible is not by itself an indication that the vehicle is travelling at excessive speeds. The Panel considered that



there is no indication that the actual speed that the driver is going is not reasonable and controlled.

The Panel considered that although the car appears to be going fast, there is no actual indication of the speed the car is going. The Panel considered that the vehicle appears to be in the control of the driver at all times and did not portray unsafe driving which would breach any Commonwealth law or the Law of any State or Territory.

Overall, the Panel considered that the driving behaviour in the advertisement did not portray unsafe driving which would be a breach of the law.

Clause 2(a) conclusion

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

Clause 2(b) Advertisers should ensure that advertisements for motor vehicles do not portray people driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast.

Consistent with the discussion under Clause 2(a), the Panel considered that there is no indication the vehicle is driving at speeds in excess of speed limits in Australia.

Clause 2 (b) conclusion

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

Conclusion

Finding that the advertisement did not breach Cause 2(a) or Clause 2(b) of the FCAI Code or any other section of the FCAI Code, the Panel dismissed the complaints.

