



Case Report

1	Case Number	0053/13
2	Advertiser	Chrysler Australia Pty Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV
5	Date of Determination	27/02/2013
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving
2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

A man is walking along the pavement. He stops as a young woman is standing in the middle of the road tying her shoe lace. She notices him looking at her, walks right up to him apparently challenging him and then slaps him across the face. She then dips her finger in his coffee and wipes the milk froth from the coffee from her hand onto his lips and some of it drops on her chest.

The man, then suddenly wakes up, the whole time he has been imagining that the Fiat 500 Abarth in front of him is a beautiful woman that he does not know how to handle.

The final line reads.....The Fiat 500 Abarth. You'll never forget the first time you see one.

THE COMPLAINT

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

I'm not a prude at all, but I think this ad is far too explicit for TV. I am especially concerned that it was shown before 8pm, during a show that is watched by many families. I also feel that, with all the media attention on the over sexualisation of girls and young women, this ad doesn't portray women in a positive light. It equates the woman with a car.

THE ADVERTISER'S RESPONSE

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

In the Complaint, the complainant alleges that the Advertisement is far too explicit for TV, particularly as it was shown before 8 pm during a show which is watched by many families. The complainant also alleges that the Advertisement does not portray women in a positive light and equates the woman with a car.

The Advertisement is for a special version of the Fiat 500, with Abarth models being modified versions of the standard Fiat 500 with specially tuned engines and unique fittings and decals designed to make them even more appealing to the target audience of 29-54 year males and females who are looking for a car that stands out from the crowd.

Contrary to what the complainant alleges in the Complaint, the Advertisement does portray women in a positive light by cleverly drawing a parallel between a beautiful woman and a car that people find appealing (particularly having regard to its Italian heritage) and which will be such an important part of their lives. There is also a humorous element in that the cappuccino which the man is holding is a beverage which originated in Italy.

In the Complaint, the complainant alleges that the man would be able to see the woman's underwear. There is absolutely no basis for this allegation, and there are no sexual references in the Advertisement. However, numerous conclusions are expected from the target audience of males and females 29-54 years.

Finally, even if the Advertisement is construed as containing sexual references, it is noted that the AANA Advertiser Code of Ethics allows such references so long as (as is the case with the

Advertisement) the sexuality is treated with sensitivity to the relevant audience (being potential purchasers of performance motor vehicles, which clearly do not include children).

4. AANA Advertiser Code of Ethics (the "AANA Code")

I note that you request CAPL to respond to the Complaint with reference to Section 2 of the AANA Code. This section deals with the AANA Code specifically and sets out CAPL's comments in relation to the specifics of the Complaint, while issues relating to the FCAI Code are dealt with in Section 5 below.

CAPL does not believe the Advertisement breaches any part of Section 2 of the AANA Code. In particular, it is our view that the Advertisement:

(a) does not discriminate against or vilify any person or section of the community (section 2.1);

(b) does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people (section 2.2);

(c) does not portray violence (section 2.3);

(d) treats sex, sexuality or nudity with sensitivity to the relevant audience (section 2.4);

(e) does not contain strong or obscene language (section 2.5); and

(f) does not depict material contrary to prevailing community standards on health and safety (section 2.6).

5. The FCAI Code

This section addresses the FCAI Code.

CAPL sees no basis for construing the Advertisement as being in breach of any part of clauses 2(a) to (e) of the FCAI Code as CAPL believes that the Advertisement does not depict:

(a) any unsafe driving that would breach any Australian law. The FCAI Code refers to examples such as excessive speed, sudden, unnecessary changes in direction, unnecessarily setting motor vehicles on a collision course.

The Advertisement does not in any way display this.

(b) people driving at speeds in excess of the limit.

The Advertisement does not in any way display this.

(c) any driving practices or other actions that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction. For example, use of hand held mobile phone, not wearing seatbelts.

There is no evidence that the Advertisement contains depiction of any practices that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction.

(d) any people driving whilst fatigued or under the influence of drugs or alcohol.

The Advertisement does not in any way display this.

(e) any environmental damage whatsoever.

There was no environmental damage depicted or caused by the creation of this Advertisement.

CAPL further confirms that:

(i) the Advertisement has been released nationally; and

(ii) the Advertisement has been made available on the internet.

CAPL takes its responsibilities as an importer and distributor of motor vehicles seriously and this extends to CAPL's obligations under the AANA Code and the FCAI Code. When

preparing advertisements including the Advertisement CAPL is conscious of the provisions of the AANA Code and the FCAI Code.

CAPL believes that the Advertisement is advertising the Fiat 500 Abarth appropriately, with no intention to undermine the provisions of the AANA Code and/or the FCAI Code. As such, CAPL does not believe that the Advertisement breaches either the AANA Code or the FCAI Code and therefore requests that the Complaint be dismissed.

CAPL will endeavour to continue to produce advertisements consistent with the standards as set down by the AANA Code and the FCAI Code.

Please do not hesitate to contact me if you have any questions or require any further information.

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) and the AANA Advertiser Code of Ethics (the “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 decided that the material in question was published or broadcast in all of Australia or in a substantial section of Australia for payment or valuable consideration given that it was being broadcast on television in Australia.

The Board determined that the material draws the attention of the public or a segment of it to a product being a Fiat Abarth in a manner calculated to promote that product. Having concluded that the material was an advertisement as defined by the FCAI Code, the Board then needed to determine 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 Fiat Abarth is 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 that the complainant had not raised concerns about the advertisement's

compliance with the FCAI Code but considered that images in the advertisement did require consideration under that Code. The Board noted that the advertisement features footage of the Fiat Abarth being driven and analysed specific sections of the FCAI Code and their application to the advertisement.

The Board considered clause 2(a) of the FCAI Code. Clause 2(a) requires that: 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 Board noted that the advertisement includes footage of the Fiat Abarth being driven on roads and then skidding as it turns through ninety degrees.

The Board noted that the examples given in the FCAI Code for unsafe driving include "...vehicles travelling at excessive speed; sudden extreme and unnecessary changes in direction and speed of a motor vehicle...."

The Board noted that although there is no verification of the actual speed of the vehicle, the visuals in conjunction with the rapid gear change and roaring of the engine give an impression of speed.

The Board noted that when the vehicle performs the ninety degree turn there is a small disclaimer on screen which states, "Professional driver on closed roads". The Board noted that in this scene there is a clear loss of traction and we can see smoke from the tyres as well as hear the accompanying noises consistent with wheel burn. The Board considered that notwithstanding the disclaimer, the overall impression is one of a vehicle being driven in a manner which depicts and condones driving a vehicle at excessive speed in a manner which is unsafe and that there is no context to the change of direction which makes it appear necessary.

On the above basis, the Board determined that the advertisement does depict unsafe driving that would breach any law and does breach clause 2(a) of the FCAI Code.

The Advertising Standards Board ("Board") then considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

With regards to the Code of Ethics, the Board noted the complainant's concerns that the advertisement is sexually explicit, equates a woman to a car and is not appropriate for a broad audience which could include children.

The Board considered whether the advertisement complied with Section 2.2 of the Code which states, "Advertising or Marketing Communications should not employ sexual appeal in

a manner which is exploitative and degrading of any individual or group of people.”

The Board noted that in the advertisement the woman is equated to a car but noted she is equated to an attractive new Italian vehicle. The Board considered that the advertisement depicts the stereotype of Italian cars being treated as beautiful women. The Board considered that the woman is depicted in a position of power and that the stereotypical depiction is positive in showing her as beautiful and powerful.

The Board considered that the advertisement was not exploitative or degrading towards women.

The Board determined that the advertisement did not breach Section 2.2.

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Board noted that the advertisement depicts a man being slapped by an attractive woman who has caught him admiring her in the street and that she subsequently appears to flirt with him before it becomes clear that the man is having a fantasy and that the object of his desire is actually a Fiat Abarth and not an Italian woman.

The Board noted that it is only clear that the woman is a figment of the man’s imagination at the end of the scene and considered that the woman is depicted as being the person in the position of power.

The Board noted that in one scene the woman scoops foam from the man’s coffee and that some of this foam drips on to her chest whilst she uses the remaining foam on her finger to brush the man’s lips. The Board noted that the advertisement does linger on her foam covered chest and considered that this depiction is sexualised.

A minority of the Board considered that the scene of the woman chastising and teasing the man, whilst sexualised, treats the sexually suggestive scene in a manner which turns out to be a humorous fantasy and is appropriately sensitive for a PG audience. The majority of the Board however considered that the advertisement depicts a sexualised scene, including slapping, and that this depiction is not sensitive to the PG audience which will include children.

The Board considered that the advertisement did not treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Board determined that the advertisement did breach Section 2.4 of the Code.

Finding that the advertisement did breach the FCAI Code and Section 2.4 of the Code of

Ethics, the Board upheld the complaint.

ADVERTISER RESPONSE TO DETERMINATION

I refer to your letter dated 28 February 2013 attaching a draft case report detailing the Board's determination.

I have been instructed to advise you as follows:

1. In view of the Board's determination, the advertisement the subject of the Complaint will be modified as appropriate at the earliest possible time to ensure that it no longer is in breach of the FCAI Code; and
2. The modified advertisement will be submitted to secure a CAD rating of "M"; and
3. A revised version of the advertisement will be forwarded to you as soon as possible.

In the meantime, the advertisement has been removed from air and is longer being shown.