



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	Case Number	0053/18
2	Advertiser	KIA Automotive Australia
3	Product	Automotive
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	21/02/2018
6	DETERMINATION	Dismissed

## ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving  
FCAI Motor Vehicles 2(c) Driving practice that would breach the law

## DESCRIPTION OF THE ADVERTISEMENT

The advertisement depicts a series of static and driving images of the Kia Sorento. This is a simple execution that showcases the new exterior looks of the car as well as some of the refined interior features. We see a number of the internal features within the car, including the instrument cluster, as well as the interior of the car and the 8 inch touchscreen.

## THE COMPLAINT

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

*Drivers should NOT be encouraged to access apps like WhatsApp, SMS, answer phone calls by means of needing to touch a screen (or a phone) etc whilst driving.. even if it is in built to the car. I think we need to be vigilant is portrayed as acceptable road rules if we want to prevent more accidents on roads.*

*Interacting with the CarPlay screen (with navigatable apps) during driving is highly dangerous and is akin to using a mobile phone whilst driving. The advertisement is*



*promoting app usage whilst driving, which is highly irresponsible.*

## **THE ADVERTISER'S RESPONSE**

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

*We have considered the complaints and the advertisement in question in light of the provisions of the AANA Code of Ethics ("AANA Code") and the Voluntary Code of Practice of Motor Vehicle Advertising set by the Federal Chamber of Automotive Industries ("FCAI Code"). We note that the nature of the complaints relate generally to the FCAI Code and specifically to the concern that the advertisement portrays unsafe driving practices.*

*We have carefully considered the AANA Code and FCAI Code, and have assessed the provisions of each against the content of this 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.*

*Looking at the AANA Code, Provision 2.6 provides that advertisements "shall not depict material contrary to Prevailing Community Standards on health and safety."*

*The advertisement depicts a series of static and driving images of the Kia Sorento. This is a simple execution that showcases the new exterior looks of the car as well as some of the refined interior features. We see a number of the internal features within the car, including the instrument cluster, as well as the interior of the car and the 8 inch touchscreen.*

*The complainants have made specific comments about the use of the touchscreen, being akin to using a mobile phone. There is absolutely no use or representation of a phone and to attempt to draw a link or a parallel to this within this execution, is totally inaccurate. It is perfectly legal to use the features that come within not only this car, but all cars sold in Australia, currently. It is legal to operate the power windows. It is legal to operate the windscreen wipers. It is legal to operate the radio and or change the station within the vehicle. It is legal to use your hands to change gear within a car, be it Automatic, or manual transmission. It is legal to operate the touchscreen whilst driving the vehicle. The touchscreen offers driver aids such as maps and navigation, both of which are legal to use as a part of the operation of a motor vehicle.*

*Such complaints as the two in relation to the Sorento execution are without substance - whilst there is still the need for human interface required to operate the current motor vehicles sold in Australia. The majority of features, including safety features, require human interaction to safely operate the vehicle. Below is a short list of some of the many features(standard on most vehicles) that require human interface to operate*



*in most vehicles.*

*Power or manual windows  
Automatic or Manual transmission  
Turning signal indicators  
Windscreen Wipers  
Air Conditioning  
Headlights  
Radio functions  
Navigation*

*All of these functions require human interaction, to operate, whilst the driver is in control of the vehicle. The demonstration of the touchscreen is simply one of the many driver operated functions of operating a motor vehicle. It is not illegal or in breach of the code, to show functions and features of the vehicle. We feel that the complainants are attempting to link the demonstration of a touchscreen to the highly illegal act of driving whilst operating a mobile phone. We strongly reject the accusations presented within these complaints as they are baseless and have nothing to do with the illegal act of using a mobile phone whilst operating.*

*In the likely event that the complainants, having driven their own motor vehicle whilst operating any of the standard safety features listed above in their own vehicles, they are being both hypocritical and sensationalist in making these false claims in relation to the use of the touchscreen.*

*We feel that the two complaints received regarding the Sorento execution are extreme in their supposition that this execution, in any way, creates a "highly dangerous" driving situation. As a result, we respectfully refute the reason for concern from the complainants.*

*This execution does not break the code. Looking at the FCAI Code, we note that at no time is there any scene in the advertisement that depicts any vehicle being driven in a manner that can be described as unsafe, menacing or reckless.*

*In relation to the questions posed from the ASB as a part of this complaint, following is our response in relation to Questions 1 & 2. Throughout this commercial, The Kia Sorento is driven legally, within the road rules, particularly in relation to the specific clauses of the FCAI Code. The car was driven within the speed limits at all times and the car was, at all stages, in control.*

*The advertiser is entitled to safely demonstrate the features of the vehicle car in such a way as to inform consumers of the core feature offerings and in doing so, create interest for the vehicle, without breaching any laws.*

*In relation to Question 3 within your response criteria, there were no special permits*



*required to undertake the filming of this advertisement, but, as always, Kia Motors Australia acts proactively with regards to occupational health and safety.*

*In relation to Question 4 within your response criteria, this TV commercial has been broadcast in all capital cities and most regional locations within Australia, since January 2018.*

*In relation to Question 5 within your response criteria, the advertisement has been published online since January 2018.*

*As a matter of course in developing such concepts we always thoroughly consider and respect the guidelines present within Section 2 of the AANA Code of Ethics. We note the following responses;*

*2.1 Discrimination or vilification - There is no breach of this section of the code as there is no representation of people within the execution at all.*

*2.2 Exploitative and degrading - There is no breach of this section of the code as there is no representation of people within the execution, nor does the tonality or theme of this execution have any relevance to this clause of the Code.*

*2.3 Violence - There is no breach of this section of the code as there is no representation of people or any type of violence within this execution.*

*2.4 Sex, sexuality and nudity - There is no breach of this section of the code as there is no representation of people within this execution.*

*2.5 Language - There is no breach of this section of the code.*

*2.6 Health and Safety - This point has been addressed earlier within our response, but again we reiterate that Kia takes Health and Safety very seriously.*

*In conclusion, we submit that the advertisement is compliant with the AANA Code and the FCAI Code, and as a result, believe the complaints should be dismissed as sheer hyperbole and overreaction to a simple, everyday task that forms part of safely operating a motor vehicle in Australia.*

## **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 Advertising for Motor Vehicles Voluntary Code of Practice (the FCAI Code) or the AANA Code of Ethics.

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 then considered 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 Panel determined that the Kia Sorrento 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.

The Panel noted the complainants' concerns that the advertisement encourages people to use apps while driving and that this is unsafe.

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

The Panel considered clause 2(c) of the FCAI Code. Clause 2(c) requires that advertise for 'motor vehicles' do not portray 'Driving practices or other actions which would, if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation.'

The Panel noted the advertisement features images of the Kia Sorrento vehicle being driven with focus on particular features, including the touch screen interface.

The Panel considered the complainants' concerns that the advertisement shows a person using the touchscreen while driving and this is similar to using a mobile phone which is illegal.

The Panel considered that the touch screen is a feature of the car and it is reasonable for the advertiser to promote the vehicles features.

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

Finding that the advertisement did not breach the FCAI Code the Panel dismissed the



complaints.