



**Ad Standards** Community Panel  
PO Box 5110, Braddon ACT 2612  
P (02) 6173 1500 | F (02) 6262 9833

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Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

<b>1</b>	<b>Case Number</b>	<b>0054/18</b>
<b>2</b>	<b>Advertiser</b>	<b>KIA Automotive Australia</b>
<b>3</b>	<b>Product</b>	<b>Vehicle</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>21/02/2018</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## 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 remote location where it is clearly marked as a construction zone. It is not a public road or highway, as the road is clearly incomplete. The road itself is lined with road construction equipment including Graders, Road Rolling machines, signage clearly stating "Road Under Construction", portable lights, barricades and road marking equipment, including a line marking machine. It is very evident that this is a construction site and is not a commissioned road. Within this scene there are no other cars, traffic, pedestrians, or for that matter, people at all. It is clearly not a residential area and looks like it may, in the future, be part of a new section of highway/motorway.

We see what appears to be a member of the road construction crew, entering the fenced off location, at the conclusion of the days shift, as all his co-workers are finishing for the day. The balance of the road building crew have clearly exited the site, as nightfall approaches. Our keen road worker turns on the portable generator lights at the construction site. We see him attempt to start and drive the Line Marking road equipment. He stalls it. It is evident, that he might not know exactly how to operate the machine. He perseveres and begins to create a white line on the unfinished, freshly laid bitumen surface. Surprisingly, rather than creating a straight



white line, he proceeds to create a curved white line.

We cut to the same location. It is clearly early morning and the Kia Stinger appears in camera, perfectly following the freshly painted white line. We see various angles of the car as it follows the line, with precision. The car always remains on the left-hand side of this white centre line that is painted within the construction site. Finally, we cut to a brief shot of the interior of the new Kia Stinger, where we briefly see the driver. At this point, we realise that the Stinger driver and the Road Line Marking construction person are the same person. The Stinger continues to drive along the left-hand side of the newly painted white line. The commercial resolves with a shot of the Stinger driving straight along the left-hand side of the white line with the on-screen supers "Stinger. For the drive of it".

## **THE COMPLAINT**

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

*It has car driving far too fast and encourages impressionable drivers to drive quickly. It clearly breaks the code. Speed kills and this ad suggest that drivers car drive quickly with safety.*

## **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 and encourages a driving practice that would breach the law.*

*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 remote location where it is clearly marked as a construction zone. It is not a public road or highway, as the road is clearly incomplete.*



*The road itself is lined with road construction equipment including Graders, Road Rolling machines, signage clearly stating "Road Under Construction", portable lights, barricades and road marking equipment, including a line marking machine. It is very evident that this is a construction site and is not a commissioned road. Within this scene there are no other cars, traffic, pedestrians, or for that matter, people at all. It is clearly not a residential area and looks like it may, in the future, be part of a new section of highway/motorway.*

*We see what appears to be a member of the road construction crew, entering the fenced off location, at the conclusion of the days shift, as all his co-workers are finishing for the day. The balance of the road building crew have clearly exited the site, as nightfall approaches. Our keen road worker turns on the portable generator lights at the construction site. We see him attempt to start and drive the Line Marking road equipment. He stalls it. It is evident, that he might not know exactly how to operate the machine. He perseveres and begins to create a white line on the unfinished, freshly laid bitumen surface. Surprisingly, rather than creating a straight white line, he proceeds to create a curved white line.*

*We cut to the same location. It is clearly early morning and the Kia Stinger appears in camera, perfectly following the freshly painted white line. We see various angles of the car as it follows the line, with precision. The car always remains on the left-hand side of this white centre line that is painted within the construction site. Finally, we cut to a brief shot of the interior of the new Kia Stinger, where we briefly see the driver. At this point, we realise that the Stinger driver and the Road Line Marking construction person are the same person. The Stinger continues to drive along the left-hand side of the newly painted white line. The commercial resolves with a shot of the Stinger driving straight along the left-hand side of the white line with the on-screen supers "Stinger. For the drive of it".*

*We respectfully refute the reason for concern from the complainant. 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. Safely and accurately following the lines marked on our roads is a basic skill and prerequisite for any driver to be able to perform if they are to attain an Australian driver's licence. Depicting a vehicle, being capably driven by a driver in a manner compliant with Australian road rules, should not be incorrectly defined as unsafe.*

*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 Stinger 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 car remains on the left-hand side of the white line, exactly as it should, had this been filmed on an actual road. Importantly, the car*



*was driven by a professional driver, in a totally supervised and controlled environment with a closed course. A combination of sound effects and camera techniques create dynamism and movement of the car, but at no stage was the car driven above the speed limit.*

*The advertiser is entitled to represent the car in such a way as to create emotion and interest for the vehicle, without needing to breach the law with regard to speed.*

*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 and in this case, the car was shot in a closed course environment, with the car being driven by a qualified professional driver, with safety officers and a registered nurse in attendance.*

*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 complaint should be dismissed.*



## THE DETERMINATION

The Ad Standards Community Panel (the 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 Stinger 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 complainant's concerns that the advertisement shows a car driving too quickly in a way that wasn't safe.

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

The Panel 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 Panel noted the examples given in the FCAI Code include: 'Vehicles travelling at excessive speed; sudden, extreme and unnecessary changes in direction and speed of a motor vehicle...or the apparent and deliberate loss of control of a moving motor vehicle.'

The Panel noted the advertisement features a man using a line machine to draw a



curving line across a newly laid road. He then drives his Kia Stinger on the left hand side of the curved line.

The Panel noted the advertiser's response that the car was driven legally and within the speed limit at all times.

The Panel considered that although the speed limit of the road was not apparent in the advertisement the car did not appear to be driving at a speed which was unsafe.

The Panel considered that overall the advertisement does not portray any driving which is unsafe, or reckless or menacing driving that would breach any Commonwealth law or the law of any State or Territory.

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

The Panel considered clause 2(c) of the FCAI Code. Clause 2(c) requires that '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 considered the advertiser's response that the vehicle was driven in a safe manner at all times by a professional driver and 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 complaint.

