



Case Report

1	Case Number	0063/13
2	Advertiser	Ford Motor Co of Aust Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV
5	Date of Determination	13/03/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving
2.6 - Health and Safety Unsafe behaviour

DESCRIPTION OF THE ADVERTISEMENT

The Fiesta TVC features the real owner "Tiffany" talking about her Ford Fiesta. Tiffany describes how much she loves the shoe stowage compartment under the front passenger seat of her vehicle (which is a standard feature of all Fiesta models). She explains that one day when she was going to a party she wanted to drive in her high heel wedges, but her father told her she couldn't drive in those high heels. Tiffany listened to her father's advice and wore her running shoe on her right driving foot and kept her wedge on her non-driving left foot. As Tiffany's vehicle is an automatic transmission and not a manual transmission, Tiffany only drove with her right foot, which is why she placed her running shoe on only her right driving foot. Tiffany stored the other wedge in the shoe compartment under the passenger's seat where it was out of her way.

THE COMPLAINT

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

I find the message to young female drivers extremely inappropriate. Prioritising fashion over driver / road safety is disgusting. The ad could easily highlight the desirable storage space and still keep the product's appeal to young drivers without showing her compromising safety. In fact it goes directly against a driver safety campaign from some years back where the unfortunate tagline for a female fatality was along the lines of "Seat belt didn't match her

shoes".

Ford should take a hard look at their marketing managers and find out why they chose a somewhat cavalier approach to appealing to young drivers.

THE ADVERTISER'S RESPONSE

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

Introduction

At the outset, I would like to emphasise that Ford Australia takes seriously its commitment to the AANA Code of Ethics (AANA Code) and the FCAI Voluntary Code of Practice for Motor Vehicle Advertising (FCAI Code) and we are aware of the potential impact that our advertising may have on members of the public.

All of our advertising, including the Fiesta TVC, is carefully reviewed in that context and is approved by legal counsel. In this instance, we firmly believe that the scenario depicted in the Fiesta TVC does not breach the AANA Code or the FCAI Code.

The complaint referred to in your letter dated 14 February 2013 alleges that the TVC contravenes Section 2.6 of the AANA Code. Section 2.6 provides that "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety". The complainant states the complainant finds the "message to young female drivers extremely inappropriate" and "prioritising fashion over driver/road safety is disgusting". The complainant goes on to allege that the Fiesta TVC depicts the young driver "compromising safety".

You have indicated that the Board will review the Fiesta TVC in its entirety against section 2 of the AANA Code, and accordingly, our response should address any issues within the Fiesta TVC that fall broadly within Section 2 of the FCAI Code.

Allegation that advertisement contravenes Section 2.6 of the AANA Code

Ford Australia strongly disagrees with any allegation that the Fiesta TVC contravenes section 2.6 of the AANA Code by depicting material contrary to Prevailing Community Standards on health and safety.

As mentioned above, Tiffany is a real Ford owner and describes her own real story which illustrates the benefit of the shoe stowage compartment under the front passenger seat. The complainant has incorrectly assumed that the vehicle depicted in the Fiesta TVC has a manual transmission and incorrectly states that Tiffany is wearing "her 'wedge' on the clutch foot". Tiffany's vehicle has automatic transmission and therefore only requires the use of her right foot. Tiffany is clearly depicted wearing her running shoe on her right driving foot. Accordingly, by wearing a running shoe on her right driving foot, Tiffany is listening to her father's advice in relation to not driving in high heels.

Whilst wearing high heel shoes when driving is not illegal in Australia, Ford Australia would never (and does not) encourage the wearing of high heel shoes whilst driving. The Fiesta TVC does not encourage young drivers to wear high heels when driving. On the contrary, the

Fiesta TVC illustrates how a driver can be safer behind the wheel by wearing a comfortable shoe on their driving foot and storing the other shoe in their shoe stowage compartment out of their way. A reasonable viewer would understand that Tiffany is driving an automatic transmission vehicle due to the fact that her running shoe is only on her right driving foot. A reasonable viewer would not assume that Tiffany's vehicle has a manual transmission, requiring her left foot to be used.

As mentioned previously, the Fiesta TVC is part of the ASR Campaign, whereby real Ford owners talk about a particular feature they love about their Ford vehicle. The creative intention of the Fiesta TVC is to highlight a feature that a Ford owner loves about his/her vehicle, in this case, it is the shoe stowage compartment under the passenger side seat.

Ford Australia submits that because Tiffany is driving safely with her running shoe on her driving foot, there is no unsafe behaviour being depicted in the Fiesta TVC, and accordingly, there is no contravention of section 2.6 of the AANA Code. Further, Ford Australia submits that there is no implicit or explicit message in the Fiesta TVC that encourages drivers to wear high heeled shoes whilst driving.

Issues arising under section 2 of the AANA Code or the FCAI Code generally

Ford Australia submits that no issues arise under the FCAI Code or other provisions in section 2 of the AANA Code. The Fiesta TVC:

(a) does not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief (Section 2.1 of the AANA Code);

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

(c) does not present or portray violence unless it is justifiable in the context of the product or service advertised (Section 2.3 of the AANA Code);

(d) does treat sex, sexuality and nudity with sensitivity to the relevant audience (Section 2.4 of the AANA Code); and

(e) does only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium) (Section 2.5 of the AANA Code).

Ford strongly disagrees with any allegation that the Fiesta TVC contravenes the FCAI Code. We examine each section of the FCAI Code below.

(a) Section 2(a):

The Fiesta TVC does not depict “unsafe driving, including reckless and 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”.

At all times during the Fiesta TVC, Tiffany is shown driving safely and in control. In no way whatsoever could Tiffany's driving be viewed as unsafe, reckless or menacing.

(b) Section 2(b):

The Fiesta TVC does not depict people driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast.

At all times during the Fiesta TVC, Tiffany is shown driving at or below the prescribed speed limits.

(c) Section 2(c):

The Fiesta TVC does not depict 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.

In our Initial Letter, we stated that wearing high heel shoes when driving is not illegal in Australia, and in any event, the Fiesta TVC did not depict Tiffany wearing a high heeled shoe on her driving foot. Instead, Tiffany was wearing her running shoe on her driving foot.

We note that Rule 297 of the Australian Road Rules (which has been adopted in each State and Territory) provides that "a driver must not drive a vehicle unless the driver has proper control of the vehicle". In NSW, the NRMA Policy Team has stated that "if an accident was to occur and it was found that the cause of the accident was due to inappropriate or lack of footwear an offence under....Rule 297...may be implied by the authorities" (Posted on the NRMA Motoring Blog on 20 September 2010).

In light of Rule 297, we reiterate that the Fiesta TVC does not encourage young drivers to wear high heels when driving. On the contrary, the Fiesta TVC illustrates how a driver can be safer behind the wheel by wearing a comfortable shoe on their driving foot and storing the other shoe in their shoe stowage compartment out of their way. Tiffany's vehicle depicted in the Fiesta TVC has an automatic transmission. This can be clearly seen at 0.2 seconds in the 15 second Fiesta TVC and at 0.5 seconds in the 30 second Fiesta TVC. This is why Tiffany is wearing her running shoe only on her right driving foot. Tiffany does not use her left foot when driving her automatic transmission vehicle. No viewer could wrongly mistake Tiffany's vehicle for a manual transmission vehicle, requiring her left foot to be used.

As mentioned in our Initial Letter, the Fiesta TVC is part of the ASR Campaign, whereby real Ford owners talk about a particular feature they love about their Ford vehicle. The creative intention of the Fiesta TVC is to highlight a feature that a Ford owner loves about his/her vehicle, in this case, it is the shoe stowage compartment under the passenger side seat.

In any event, if Tiffany was to have an accident in the scenario depicted in the Fiesta TVC, it would not be found that the cause of the accident was due to inappropriate footwear, as Tiffany was wearing a running shoe (being appropriate footwear) on her driving foot.

Accordingly, the depiction of Tiffany wearing a running shoe on her driving foot (and her

wedge on her non-driving foot) is not a depiction of driving practices which would breach any Commonwealth or State or Territory law directly dealing with road safety or traffic regulation.

(d) Section 2(d)

The Fiesta TVC does not depict people driving while being apparently fatigued, or under the influence of drugs or alcohol to the extent that such driving practices 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 directly with road safety or traffic regulation.

Tiffany was not fatigued and was not under the influence of drugs or alcohol when the Fiesta TVC was filmed. Nor does the Fiesta TVC depict Tiffany in a fatigued state or under the influence of drugs or alcohol.

(e) Section 2(e)

The Fiesta TVC does not depict deliberate and significant environmental damage. At all times during the Fiesta TVC, Tiffany is shown driving on Australian public roads. The Fiesta TVC does not depict any environmental damage whatsoever.

Ford Australia reiterates that it strongly believes that the Fiesta TVC does not in any way contravene the FCAI Code or the AANA Code.

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 Ford Fiesta 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 Ford Fiesta 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 the complainant's concerns that the advertisement prioritises fashion over safe driving thereby sending a dangerous message to young drivers.

The Board noted that as per the FCAI practice note, advertisements for motor vehicles which raise issues concerning safety are to be determined using the Motor Vehicle Advertising Code as opposed to the AANA Advertiser Code of Ethics and therefore clause 2.6 of the AANA Code of Ethics relating to community standards on health and safety does not apply.

The Board considered clause 2(c) of the FCAI Code. Clause 2(c) requires that: Advertisements 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 Board noted the advertisement features a father telling his daughter that her wedge heeled shoes are not appropriate for driving and we see her remove one of her shoes, placing it in the storage space under her seat and putting on a running shoe.

The Board noted the advertiser's response that the vehicle used in the advertisement is an automatic and therefore the actor in the advertisement only wore a running shoe on her right foot as her left foot is not required in order to drive the vehicle.

The Board noted the complainant's concerns that the advertisement prioritises fashion over safe driving and considered that most members of the community would recognise the advertisement is using a young woman's love of fashion to make a valid safety point regarding driving with appropriate footwear and that the emphasis on the under-seat storage highlights how easy it is to keep spare, appropriate footwear at hand.

The Board noted that it is not clear in the advertisement that the car is an automatic however the Board considered that the interaction between the father and daughter is intended to make drivers aware of safe driving practices and that the overall tone and message of the advertisement is of safe driving.

The Board 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 Board dismissed the complaint.

