



## Case Report

|   |                               |                                   |
|---|-------------------------------|-----------------------------------|
| 1 | Case Number                   | 0093/12                           |
| 2 | Advertiser                    | Suzuki Australia Pty Limited      |
| 3 | Product                       | Vehicles                          |
| 4 | Type of Advertisement / media | TV                                |
| 5 | Date of Determination         | 28/03/2012                        |
| 6 | DETERMINATION                 | Upheld - Modified or Discontinued |

### ISSUES RAISED

|                |   |
|----------------|---|
| Motor vehicles | 2a Unsafe driving                             |
| Motor vehicles | 2c Driving practice that would breach the law |

### DESCRIPTION OF THE ADVERTISEMENT

The TVC shows a Swift Sport at a car park boom gate, with a couple inside. The car then enters the car park, driving up the ramp. The car is shown driving round the multi-storey car park and setting off sprinklers. The female passenger appears to be hot and is shown fanning herself with her hand. The car then parks and the couple get out, with sprinklers going off behind them.

### THE COMPLAINT

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

*The commercial portrays irresponsible driving behaviour. The storyline is set up as a sort of race/time trial theme. The car races through the car park appears to be frequently going too fast. On a number of occasions the car appears to lose traction as it fish tales around the corners including a loss of traction as it enters a parking bay at the end of the commercial. The ad gives the impression that this loss of traction is created on purpose by the driver as he smiles at his female companion.*

*Car parks are inherently dangerous places and the car appears to be going too fast to be safe in this environment. Almost any car park I have been into has a speed limit of 10 or 20km per hour. Further the driver appears to be making the car lose traction on purpose which I understand to be illegal behaviour under the so called "hoon" laws that operate in many*

states. The commercial glamourises this behaviour and I believe could encourage impressionable drivers to replicate this type of behaviour in a car park. The advertisement clearly links speeding and dangerous driving with desire and sex appeal towards the male driver from his female passenger. This ad depicts a sports model car being driven at high speed by a young male driver through a public car park with the driver's clear intention being to impress his young female passenger with the performance of his vehicle and his driving skills. The driver races the car dangerously through tight corners with the car's engine at high rpm. The view frequently shifts to the female passenger who is becoming increasingly "turned-on" (sweaty, giddy) by this display in a bizarre sexual way. The female passenger is not wearing her seat belt correctly with the shoulder sash barely visible under her heaving breast (presumably to accentuate her chest). The depiction of cars being used this way in advertising needs to be reviewed with standards put in place to prevent this type of advertising. As the General Manager of a WA company providing traffic monitoring devices throughout Australia and elsewhere I am frequently in contact with many government workers (state local) who spend a great deal of time and public resources on campaigns and countermeasures against this kind of unsafe driving. I object to the advertisements for new Suzuki vehicles and most ads for new motor vehicles as they continually show and offer the vehicles with their headlights and fog lights illuminated together when this is in fact in WA and several other states I am aware of a Breach of the relevant Road Traffic Laws. Fog lights cannot be used in conjunction with headlights and warrants a Traffic fine if you do as such advertisers should not be able to advertise cars with their lights configured in this way. The car is moving and driving at speed and occupied by a passenger (female). In the early part of the commercial she is wearing a seat belt and in the later part of the commercial she appears to not be wearing a seat belt. It appears that if she was wearing a seat belt it would obscure the view of her chest. I guess this is an integral part of the image they are trying to portray. It may diminish the visual image but I still think she should be wearing a seat belt. If the passenger is not wearing the belt then it appears she and the driver are breaking the road rules in every state of Australia unless you don't have to wear one in a car park. I don't consider myself as a wowser but I do believe seatbelts should be worn and car makers should reflect the road rules. I also believe it could be fixed easily if Suzuki also believes in safety. I think the advertisement encourages dangerous driving behaviour particularly on a day when 7 people have been killed on Victorian road. It unnecessarily encourages 'hoon' behaviour.

## **THE ADVERTISER'S RESPONSE**

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

*We refer to the letter received on 1st March 2012 in relation to the above 3 complaints. Firstly, we would like to emphasise that Suzuki Australia Pty Ltd takes its responsibility to promote safe driving extremely seriously, in line with its quest to manufacture vehicles that*

*achieve the highest possible safety ratings. The Suzuki Swift has achieved a 5 star ANCAP Safety rating and is the only car priced under \$17,000 that comes with 7 airbags as standard. We also take very seriously our commitment to 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 review our advertising carefully with the AANA Code and the FCAI Code in mind, including legal review and advice.*

*We have carefully considered the AANA Code and FCAI Code, and have assessed the provisions 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. We note that the advertisement is a TVC for a motor vehicle and features that vehicle being driven in a public car park.*

*The Suzuki Swift Sport, depicted in the advertisement, is purchased evenly by both females (50.7%) and males (49.3%) with the main reason for purchase noted as the vehicles style and appearance (64.7% of customers describe this as the main purchase reason). Swift Sport owners also agree that the vehicle they drive makes a statement about who they are (72%). Accordingly, we have developed an advertisement with the core objective of making the vehicle look stylish and aspirational. As such, our theme is that the Swift Sport looks Hot. The advertisement depicts a couple driving into a car park in their Swift Sport. There is a shimmer in the air to indicate that the temperature is hot. As they head to the top level, the car parks sprinklers are set off in a fantastical fashion because the Swift Sport looks "hot". At the same time, the vehicles passengers are also indicating that it is hot.*

*Throughout the advertisements, there are a high number of shots of the car from different angles, including stylised filming. At no time is the vehicle "racing" as suggested by some complainants – there are no other moving vehicles in the advertisement nor any form of clock timing. As is standard in car parks, a boom gate raises for the vehicle to enter.*

*At no point are there any depictions of unsafe, reckless or menacing driving that would breach any Commonwealth or State laws. We confirm that throughout the filming of the advertisement, the vehicle was always being driven at or below the speed limits in the car park and there are no indications to suggest otherwise. We confirm that all passengers were correctly wearing their seatbelts at all times and there was no illegal use of mobile phones. The car was being driven in a controlled manner throughout the advertisement.*

*We also refute claims made by complainants that "the car appears to lose traction as it fish tales around the corners". At no point in the advertisement does the car lose any traction whatsoever around corners. The car does not lose traction as it enters the parking bay.*

*It is our strong belief that the advertisement does not breach the FCAI Code. We also consider that the advertisement does not breach any provision of the AANA Code.*

*For the reasons above, we request that these complaints are dismissed by the Board.*

## **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 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 Suzuki Swift 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 Suzuki Swift was 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 complainants' concerns that the advertisement depicts the unsafe and illegal driving of a car in a car park.

The Board then 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 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 motor vehicle...or the apparent and deliberate loss of control of a moving motor vehicle."

The Board noted that the advertisement shows a Suzuki Swift being driven in a multi-storey car park and that the footage has been sped up in some scenes and gives the impression of the car moving very quickly.

The Board noted the complainant's concern that the driver of the vehicle appears to deliberately 'fish tail' around corners creating a loss of traction and considered that at no

point in the advertisement does the driver appear to lose control of the vehicle and that whilst the car is shown driving round corners it does so in a controlled manner.

The Board noted that at the start of the advertisement we see the driver pressing his foot on the accelerator pedal followed by a view of the tachometer showing rapidly increasing engine revolutions. The Board noted that whilst there is no independent verification of the actual speed of the vehicle, in the Board's view the combination of the firm depression of the accelerator pedal, the increase in engine revs and the sped up footage combine to give an overall impression of reckless speed which the Board considers to be a depiction of unsafe driving.

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

The Board considered whether the advertisement breached clause 2(c) of the Code. Clause 2(c) of the FCAI Code provides that advertisers should 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 dealing directly with road safety or traffic regulation'.

The Board noted the complainants' concerns regarding the use of fog lights and considered that as the Australian Road Rules (2012) make no reference to the use of fog lights in a multi-storey car park the use of fog lights in this advertisement does not breach this clause.

The Board also noted the complainant's concerns regarding the female passenger not wearing a seatbelt. The Board noted that both the driver and the passenger are both shown wearing seatbelts when in the vehicle and considered that the advertisement did not breach the clause.

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

The Board then considered whether the advertisement was in breach of Section 2.4 of the Code of Ethics. 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 female passenger of the car is wearing a short, low cut dress and that whilst she is in the car there is a close up scene of her chest as she fans herself apparently to cool down.

The Board noted that whilst it is not necessary for the woman to be wearing a low cut dress the dress is in keeping with typical attire for a woman to wear on a date and that her breasts are adequately covered. In the Board's view most members of the community would consider the brief focus on the woman's chest to be not inappropriate given she is being depicted as fanning herself to keep cool and that the advertisement does treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Board determined that the advertisement did not breach Section 2.4 of the Code.

Finding that the advertisement did breach the FCAI Code, the Board upheld the complaint.

### **ADVERTISER RESPONSE TO DETERMINATION**

Whilst Suzuki Australia do not believe that the Swift Sport television commercial breaches the FCAI code, we have considered the board's determination and concerns regarding the images of the accelerator pedal and the tachometer and will be modifying the commercial to remove these scenes.