



Case Report

1	Case Number	0095/15
2	Advertiser	Ford Motor Co of Aust Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	25/03/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement compares certain features including power, of the 2015 Ford Kuga Titanium and the 2.5L RAV4.

The Advertisement shows the 2015 Ford Kuga Titanium overtaking the 2.5L RAV4 as the driver details the features and specifications of the vehicle.

THE COMPLAINT

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

During the sequence when the driver is detailing the features of the car an overtaking manoeuvre takes place. It obvious that it is taking place up a hill. As the car moves back to the left lane on completion of the overtake the crest of the hill can clearly be seen. I believe this relates to AANA Code of Ethics 2.6 Health and Safety Motor Vehicles. This goes against every instinct I have as a driver.

THE ADVERTISER'S RESPONSE

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

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 Advertisement, is carefully reviewed in that context and is approved by legal counsel. In this instance, we firmly believe that the scenario depicted in the Advertisement does not breach the AANA Code or the FCAI Code.

The complaint referred to in your letter dated 2 March 2015 alleges that the Advertisement contravenes Section 2.6 of the AANA Code. Section 2.6 states that Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

You have indicated that the Board will review the Advertisement against the FCAI Code and section 2 of the AANA Code, and accordingly, our response should address any issues within the Advertisement that fall broadly within Section 2 of the AANA Code, as well as the FCAI Code.

Allegation that advertisement contravenes Section 2(c) of the AANA Code

The scene in question (0:06-0:07) shows the completion of an overtaking manoeuvre. The complainant suggests that a crest in the road is shown that impedes vision to oncoming traffic, rendering the overtaking sequence unsafe and/or contrary to Prevailing Community Standards on health and safety.

Ford Australia strongly disagrees with any allegation that the Advertisement depicts driving practices or other actions which are unsafe or contrary to Prevailing Community Standards on health and safety. In particular, Ford Australia strongly disagrees with the suggestion that the 2015 Ford Kuga did not have a clear view of any approaching traffic.

The sequence was in fact filmed under controlled conditions, overseen by accredited health and safety officers, who ensured that sight lines to oncoming traffic were unimpeded by the chosen location. Ford Australia was also careful to ensure that the Advertisement showed driving practices that are compliant with the current laws and road rules of each State and Territory. The 2015 Ford Kuga Titanium depicted only overtook when it was safe to do so and when road marking and signs indicated that it could.

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 Advertisement:

(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);

(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); and

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

As for the FCAI Code, the Advertisement does not raise issues under this code as it does not depict:

(a) 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;

(b) people driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast;

(c) 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;

(d) 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; or

(e) deliberate and significant environmental damage.

If the ASB considers that any other issues arise under either of the codes, Ford requests the opportunity to be informed of the ASB's views in that regard so that an appropriate response can be made.

Ford Australia strongly believes that the Advertisement does not breach the FCAI Code and AANA Code. I trust that this correspondence adequately addresses the concerns raised in the complaints referenced.

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).

The Board noted the complainant's concern that the advertisement shows unsafe driving behaviour while overtaking.

The Board first 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 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 Board noted the advertisement is promoting the 2015 Ford Kuga and depicts the car overtaking another vehicle (RAV 4) while the driver describes the power and other features of the vehicle.

The Board noted the scenes in particular where the vehicle is being driven along a sealed road and overtakes another car.

The Board noted that it is not clear what speed the vehicle is being driven at but considered that the vehicle does not appear to be travelling at excessive speed for the conditions. The Board noted that at the point of overtaking the road is marked with broken lines and that it is lawful to overtake with these road markings.

The Board noted that it is difficult to determine the car's placement on the rise of the road but as the lines are broken the Board considered that there was no evidence to suggest that the overtaking manoeuvre was not undertaken safely and within the prevailing road rules. The Board noted that the driver indicates her intentions and checks the vehicle mirrors etc during this scene.

The Board noted that the woman remains attentive to the road and the conditions as she discusses all the features of the vehicle throughout the advertisement.

The Board considered that the advertisement did not depict unsafe driving and did not breach clause 2 (a) of the FCAI Code.

Finding that the advertisement did not breach the FCAI Code on any grounds, the Board dismissed the complaint.

