



Ad Standards Community Panel
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Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0098/18
2	Advertiser	Jaguar Land Rover Australia Pty Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	07/03/2018
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 television commercial shows a left hand drive car driving on the right hand side of the road.

THE COMPLAINT

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

Vehicles travelling on the Right Hand side of road. Due to an increase in accidents of foreign drivers in Victoria I consider this misleading to tourists watching, showing vehicles travelling on the wrong side of the road.

Vehicles being driven on the wrong side of the road at high speed.

THE ADVERTISER'S RESPONSE

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





The TV commercial is made up of footage of Jaguar vehicles that has been shot in the USA. The disclaimer, on screen for 11 seconds and approved by CAD, clearly states that the models shown are from the US, driven on a closed course and driven by a professional driver. All cars featured are US spec and therefore left hand drive. Nowhere in the commercial is there an indication that the car is exceeding the national speed limit. The end date of the airing of the TVC is 28 February, 2018 and won't be going to air again.

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 on the wrong side of the road.

The Panel noted the practice note for the FCAI Code which states:

The Board will not consider complaints which relate solely to:

- (a) The use of images produced overseas which may depict number plates from jurisdictions outside of Australia or left-hand drive vehicles travelling on the right-hand side of the road, when the footage is provided for an Australian company by its overseas parent company.
- (b) The absence of number plates on motor vehicles being advertised.



The Board has previously considered that such images do not raise an issue of road safety or vehicle occupant protection. These matters are outside the scope of the FCAI Voluntary Code of Practice for Motor Vehicle Advertising and will not be submitted to the Board for determination.

Consistent with the Practice Note guidelines the Panel considered that depicting an overseas vehicle driving on the right hand side of the road did not breach any provision of the FCAI Code.

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 complainant's concern the vehicle was driving at high speed.

The Panel noted the advertiser's response that the car was driven by a professional driver and that there is no indication of speeding in the advertisement.

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.

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

