



Case Report

1	Case Number	0129/12
2	Advertiser	Volkswagen Group Australia Pty Limited
3	Product	Vehicles
4	Type of Advertisement / media	Pay TV
5	Date of Determination	11/04/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

2.5 - Language inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

Various models of Volkswagen cars are shown as well as people or animals imitating the different noises the cars make.

In the final scene we see a man reverse park his car using Volkswagen technology instead of his hands. A young girl and her grandfather are watching from a nearby cafe table and the girl exclaims, "well beep me". The car horn beeps as she says the word "beep". Her grandfather looks at her and then the words, "The Germans have a word for it" appear on screen followed by the VW logo and the words, "Das Auto".

THE COMPLAINT

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

While actual swearing is not done it is plainly and clearly inferred...CONDONING OF SWEARING BY CHILD THAT YOUNG IS NOT ACCEPTABLE.....

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 above complaints in connection with our television advertisement of Volkswagen technology and the specific scene within the said advertisement which features Volkswagen's reverse park assist technology (the Advertisement). It is noted that the Advertisement was aired on both Pay TV and free to air TV and is the subject of complaint reference numbers 0129/12 and 0131/12. We accordingly respond to both complaints simultaneously.

Firstly, it should be known that Volkswagen Group Australia Pty Ltd ("Volkswagen") takes its responsibility as an advertiser very seriously and makes extensive efforts to understand and respond appropriately to community concerns and issues, including by having in place our own stringent internal review and approval process, including legal advice.

We have considered the complaint and the Advertisement in light of the provisions of the AANA Code of Ethics ("the AANA Code").

We have carefully considered the AANA Code and assessed its provisions against the content of the Advertisement. We submit that the Advertisement does not breach the AANA Code on any of the grounds set out in the same.

Section 2.5 of the AANA Code provides that:

"Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language should be avoided."

The Advertisement

We note the complainants' concerns, which in essence centre on the following: the young girl using inappropriate, strong or obscene language; and the inference of swearing.

The Advertisement showcases many of the technological features available across the Volkswagen passenger vehicle range.

One such feature is Volkswagen's reverse park assist technology which is showcased from about the 16 second mark of the Advertisement.

You will notice that this scene shows the driver reversing the vehicle without the use of his hands. No creative licence is taken here in showing this driver not employing the use of his hands. Volkswagen's reverse park assist technology is capable of operating without the use of hands, an element of the technology we are proud of and which we consider leaves a significant impression on all persons.

The scene which immediately follows the "no hands" reverse park assist scene involves the young girl sitting with her grandfather at a cafeteria. The young girl and her grandfather both observed the "no hands" reverse park assist scene. It is after following this "no hands" scene in amazement that the young girl then utters "Well beep me".

We make the following comments and clarifications in relation to the young girl stating "Well beep me":

The scene of the young girl stating "Well beep me" was effectively intended in a lighthearted and humorous manner to illustrate that the "no hands" aspect of the reverse park assist feature leaves a major impression on all cross sections of the community, even very young members of the community. Volkswagen therefore employs hyperbole in conveying this message.

There is at no stage any audible obscenity uttered by the young girl, noting that the sound of a car horn coincides with the young girl saying "Well beep me". If the audio of the horn was actually removed, the scene would be one of the young girl saying "Well beep me" and there would in our view be no cause for complaint.

The young girl's parents were fully consulted in relation to the scene and consented to their child's script and to the words actually stated.

*The words the young girl actually uttered were not inappropriate or obscene in any way. The actual word spoken by the little girl was “beep” and the use of the car horn was merely used for effect. The word “F%*K” or any other obscenity was not actually used.*

The Advertisement is actually part of a two part series of ads which showcase the technology. In a related ad, the young girl’s grandfather actually says “Well bugger me” and again a car horn coincides with this statement (the Related Ad).

The Related Ad has at no stage been the subject of any complaint. We enclose a copy of the Related Ad for your reference.

Notwithstanding that the use of the word “bugger” has been cleared by the Board in relation to a Toyota advertising campaign in 1999 (see ASB complaint reference 131/99) we elected to in any case “censor” the word “bugger” in the Related Ad. We did this by use of the car horn and also by taking the additional measure of reversing the lip movement of the “grandfather” such that it is not apparent by lip reading what word he is saying.

We consider the Advertisement the subject of these complaints builds on the theme created by the Related Ad, in illustrating how the more elderly members of the community and the very young are both amazed at the “no hands” aspect of the reverse park assist feature.

*We also note that in ASB complaint reference number 0486/11, the Board considered whether the words “Firkin Hell” were obscene and/or offensive in that they were to be inferred as a reference to the commonly used obscenity. The Board took the view in dismissing that complaint, that as the word “f%*k” was not actually used the term “Firkin” in itself is not strong or obscene.*

We consider that similar considerations should apply here, especially in light of the fact that no strong or offensive language was used or heard at any stage.

We also note for completeness that the Advertisement received a W Card Placement Code from CAD.

For the above reasons we submit that the Advertisement is not in breach of the AANA Code. If you require any further assistance or information please do not hesitate to contact me.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant's concerns that the advertisement uses inappropriate and offensive language that is unsuitable for children.

The Board viewed the advertisement and noted the advertiser’s response.

The Board then considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided”.

The Board noted that the advertisement shows various models of Volkswagen cars. In the final scene a man is shown reversing his car using Volkswagen reversing technology instead

of his hands. A young girl and her grandfather are watching from a nearby cafe table and the girl exclaims, "well beep me". The car horn beeps as she says the word "beep".

The Board noted the advertiser's response that the advertisement was intended in a lighthearted and humorous manner to illustrate that the "no hands" aspect of the reverse park assist feature leaves a major impression on all cross sections of the community, even very young members of the community.

The Board accepted that the inference of a young girl swearing could be considered offensive by some members of the community. The Board considered that although the simultaneous use of the car horn and the young girl saying "beep" is an intended reference to an obscene word, an actual obscenity is not used and the term 'beep' in itself is not strong or obscene.

The Board noted that the Grandfather is shown to disapprove of what the girl has said and that the advertisement does not condone children swearing. The Board noted that it has previously upheld an advertisement with a child swearing (case 13/11), but in that case the strong language was readily heard and there was no suggestion that it was inappropriate.

The Board noted the advertiser's response that the advertisement complied with Commercial Television Industry Code of Practice and the advertisement was classified with a "W" rating and appears in the appropriate timeslots for the rating given.

The Board considered that young children viewing this advertisement may mimic this behavior, but did not think that the advertisement is condoning swearing by children.

Based on the above the Board determined that the advertisement used appropriate language, did not use strong and obscene language and that it did not breach Section 2.5 of the Code.

The Board noted that the advertisement depicts a person reversing into a car park with the use of reverse park assist and considered whether the advertisement complied with the Federal Chamber of Automotive Industries Advertising for Motor Vehicles Voluntary Code of Practice (the FCAI 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 subscription 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 range of VW vehicles 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 VW vehicles are motor vehicles 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 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 considered that the depiction of a vehicle being parked in a routine manner is not a depiction of unsafe driving and does not breach 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 that the image of the car being parked shows the driver without hands on the wheel. The Board considered whether being in charge of a moving vehicle without hands on the steering wheel was a depiction of an unsafe driving practice.

The Board noted that park assist does require drivers to remove their hands from the wheel – but that operation of such systems also requires that drivers keep their hands near to the wheel. The Board considered that in this advertisement the man appears to be reversing slowly, paying due care to where his vehicle is going and that his hands are in close proximity to the sides of the steering wheel. The Board considered that the advertisement depicted the driver making appropriate and careful use of new driving technology and that the advertisement did not depict a driving practice that would breach a law.'

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 or the Code of Ethics on any other grounds, the Board dismissed the complaint.

