



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0133/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Suzuki Australia Pty Limited</b>
<b>3</b>	<b>Product</b>	<b>Vehicles</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Pay TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>11/04/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheld - Modified or Discontinued</b>

### ISSUES RAISED

Motor vehicles      2a Unsafe driving  
2.4 - Sex/sexuality/nudity      S/S/N - general  
2.2 - Objectification      Exploitative and degrading - women

### 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. Whilst driving, the car parks sprinklers go off. The car 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 Ad conveys the wrong messages to young drivers deeming it responsible to drive at breakneck speed through a multi-storey car park. further the need to have a scantily clad lady does nothing to enhance the image of the car. This is a very irresponsible advertisement and in my view also very sexist in using the images of a scantily clad lady. Why would Suzuki not tell us how good their car is rather than portraying the images that they do in this advertisement?*

### THE ADVERTISER'S RESPONSE

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

*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.*

*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. It does not breach section 2.4 as it does not show any form of sex, sexuality or nudity. The female in the ad is wearing an evening dress that is commonly accepted in today's society for daytime or evening wear. Additionally, it does not breach section 2.2 as it does not discriminate against women as the female in the ad is wearing a common evening dress accepted in today's society.*

*For the reasons above, we request that this complaint be 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.

In relation to the FCAI Code the Board noted the complainant's concerns that the advertisement depicts unsafe driving 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 that it has previously considered this advertisement under the medium of TV (0093/12) where it determined that the advertisement was in breach of the FCAI Code:

“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 noted that the advertiser had complied with the Board’s findings and had indicated that it would modify the TV version of the advertisement in order to comply with the FCAI Code. The Board considered that the current advertisement is the same only shown in different media and that for the reasons articulated above in case 0093/12 should be upheld.

The Board noted the complainant’s concerns that the advertisement is sexist in its portrayal of a scantily clad woman.

The Board considered whether the advertisement was in breach of Section 2.1 of the Code. Section 2.1 of the Code states: “Advertising or Marketing Communications shall 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, sex, age, sexual preference, religion, disability or political belief.”

The Board noted the complainant’s concerns that the use of the woman wearing a short dress in the advertisement is sexist. The Board noted that the advertisement features a man and a woman in the car and that whilst it is not necessary for the woman to be wearing a low cut dress the dress is not inappropriate attire for a woman and that her breasts are adequately covered. The Board considered that the portrayal of the woman in the advertisement does not amount to a portrayal which is sexist and does not discriminate against women.

The Board determined that the advertisement did not discriminate against or vilify any person or section of the community on account of race and did not breach Section 2.1 of the 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.

In the Board’s view most members of the community would consider the brief focus on the woman’s chest to be gratuitous, but in the context of the advertisement (fanning herself to keep cool because the car drive is ‘hot’) is not inappropriate and is a minor part of the advertisement. The Board considered 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**

Suzuki Australia Pty Ltd takes it's responsibility to promote safe driving extremely seriously. We also take seriously our commitment to the AANA Code and the FCAI Voluntary Code of Practice of Motor Vehicle Advertising and review our advertising carefully with these codes in mind.

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. The modified commercial will appear on both Free to Air and Pay TV.