



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0134-22
2. Advertiser :	KIA Automotive Australia
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	13-Jul-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(a) Unsafe driving

DESCRIPTION OF ADVERTISEMENT

There are two versions of this television advertisement, which include the same vision with a different end plate.

Version 1 states: It's not a race. It's sibling rivalry.

Version 2 states: Australia's most wanted. On the run.

Both versions feature two cars driving next to each other on a desert road. One car takes a turn off onto the dirt, before pulling back up next to the first car.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

As mentioned above, apart from being illegal, the action of two vehicles driving side by side with one on the wrong side of the road is dangerous.

THE ADVERTISER'S RESPONSE

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



The complainant alleges that the Advertisement raises issues under Section 2 of the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (Code).

Kia takes compliance with the Code very seriously.

For the reasons set out below, Kia disagrees the Advertisement infringes Section 2 of the Code or any other section of the Code.

Background to the Advertisement

The advertisement was created to celebrate the Kia EV6 and Kia Sportage both winning Car of the Year awards in 2022. The advertisement was built around showing the different designs of the cars in beautiful areas of Australia. This campaign is all about the look of the cars and how far the brand has evolved and is intended to target a broad range of consumers across various demographics.

The TVC theme is about these two new models not racing, but driving together, as both cars have won Car of the Year awards. The advertisement also shows multiple driving scenarios that match each car. The SUV as an adventure vehicle with its go anywhere abilities and the EV6 as a luxury crossover with incredible road presence.

The Advertisement has been broadcast in all States and Territories of Australia since June 2022. The Advertisement has been broadcast online on Kia's YouTube and social channels since June 2022.

The advertisement

The advertisement begins on an empty road and the two cars pass camera on a closed road. Then cuts to one car passing the other car safely and well below the speed limit. We then cut to a close-up of the same shot as the cars exit frame. The cars are then seen on an outback highway one behind the other showing the vastness of Australia and showing there are no cars in the wider area. The camera then pans from looking out to the expanse as the Kia EV6 enters frame followed by a shot of the Kia Sportage passing the EV6. In the next shot we see the Kia Sportage indicate and exit the road, showing a sequence of the car demonstrating its ability to drive on a dirt road. Through a POV shot of the dirt road we transition back to the road where the EV6 comes to camera. We then cut to a drone shot where the cars cross each other showing another variation of the road use and then back to the vastness of the outback again clearly showing there are no other cars on any of the roads. The final hero drone shot is the Kia EV6 passing the Kia Sportage on a clear road with no other traffic.

The complaint



Kia takes compliance with the Code very seriously. Kia believes the Advertisement does not depict conduct which is in contravention of the Code and believes the complaint should be dismissed.

1. Depiction of unsafe driving in contravention of the Code

The Advertisement does not depict unsafe driving in contravention of clause 2(a) of the Code.

Clause 2(a) of the Code states that advertisers should ensure that advertisements of motor vehicles do not portray unsafe driving, including reckless or menacing driving.

The purpose of the Advertisement was to celebrate the designs of the Kia EV6 and the Kia Sportage in a beautiful way. The driving in the advertisements was all conducted safely, in closed conditions, and well below the speed limit.

The public roads used had an either 100km/h or 110km/h speed limit, yet filming, for safety reasons, was conducted at a maximum speed of 70km/h. There is no performance element to this commercial, it does feature quick edit shots, cinematic design and sound design, but all vehicles are being driven safely by professional drivers whether on public or private roads.

The story telling element of the cars exploring and searching the different roads they are on is done safely and carefully and all road rules were being adhered to in each situation. The quick sequence of shots was put together randomly and the shot selection does not follow a traditional story/driving narrative.

Regarding the complainants' specific concerns:

REASON FOR CONCERN: As mentioned above, apart from being illegal, the action of two vehicles driving side by side with one on the wrong side of the road is dangerous.

The advertisement is a sequence of shots, put together randomly and the shot selection does not follow a traditional story/driving narrative seen in other automotive advertisements. The cars are depicted exploring a variety of different types of roads and are done so in a safe and careful manner, whereby all road rules are being adhered to in each situation.

The advertisement also explicitly states, via a super, that 'It's not a race,' further reinforcing the safe driving notion of the two cars.

In the scenes where the cars are driving side by side, the road depicted in the advertisement is a two-laned, single way road. There are no road markings or road signs to suggest otherwise.



In the concerned scenes, both cars are depicted as driving on a two-laned, single-way road, side by side, safely and adhering to all road rules. At no point are they depicted as driving on the wrong side of the road or driving in an unsafe manner.

Considering these factors, we respectfully submit that the advertisement does not and could not be considered by any reasonable person to encourage or condone behaviour in breach of the Code.

Other considerations under the Code.

Kia notes that in addition to considering specific issues raised by the individual complainant, the Community Panel will also review the Advertisement in its entirety against the Code. It does not breach clause 2 of the Code.

AANA Code of Ethics not relevant for consideration

Kia notes that, under the Motor Vehicle Advertising Code Practice Note, advertisements for motor vehicles which raise issues or complaints concerning safety are to be determined according to the Code as opposed to the AANA Code of Ethics. Accordingly, Kia has not dealt with the AANA Code of Ethics in its response.

THE DETERMINATION

The Ad Standards Community Panel (Panel) was required to determine whether the material before it was in breach of the AANA Code of Ethics or the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (the FCAI Code).

The Panel noted the complainant's concern that the advertisement depicts vehicles driving side by side on a two lane road which is illegal and unsafe.

The Panel viewed the advertisement and noted the advertiser's response.

Is this advertisement for a motor vehicle?

The Panel considered whether the 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 EV6 and Kia Sportage are 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.

Clause 2(a): '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.'

Driving side by side

The Panel noted the complainant's concern that the advertisement depicts two cars travelling side by side on a two lane road, i.e. a road that would have oncoming traffic.

The Panel noted that in some scenes the vehicles are travelling in the same direction, and in another scene they are travelling in opposite directions.

The Panel noted the advertiser's response that the vehicles are depicted exploring a variety of different roads, and that in scenes where the vehicles are shown travelling in the same direction side by side they are on a two lane, one direction road with one vehicle overtaking the other. A minority of the Panel considered that the advertiser had not succeeded in its stated intention to depict the road as being two lane in one direction given that the camera zooms out and no other road indicating another travel direction is visible. However, the Panel considered that there is also no indication that this statement is untrue and noted that there is no signage or other traffic to contradict the advertiser's assertion.

The Panel considered that the brief scene involving the cars passing each other going in different directions depicted the cars on a different road, and it did not interpret the scene as indicating that the previous scenes therefore take place on a two direction road. The Panel considered that the framing of the scene was too tight to lead to a strong impression that this was necessarily the same road. The Panel considered that the position of the scene towards the end of the advertisement, and the different camera angle and style of the scene, added to the impression that the scene was happening at a different time and place to the original scene.

The Panel considered that the vehicle on the right does change position slightly, moving forwards past the car on the left, indicating that it is overtaking the vehicle on the left. The Panel considered that the cars may appear to be deliberately driving in close proximity without any overtaking action occurring, however the Panel considered that these shots were fleeting and that the ad depicted one vehicle overtaking the other.

The Panel considered that there is no evidence that the scenes showing the two vehicles travelling side by side in the same direction is unsafe or that it is against road rules.

Turning off road

The Panel noted a scene in which a vehicles turns off the road from the right lane.



The Panel noted that if the road depicted was a two direction road such an action would potentially be illegal, however accepting that the road is a single-direction road, turning right from the right lane is not unsafe or a breach of road rules. The Panel considered that the speed and general vehicle movement during the turn was not unsafe or otherwise a breach of road rules.

Clause 2(a) conclusion

The Panel considered that the advertisement did not depict the vehicle engaging in unsafe driving or menacing driving which would be likely to breach relevant Commonwealth Law were it to occur on a road or road related area. The Panel considered that the advertisement did not breach Clause 2(a) of the FCAI Code.

Conclusion

Finding that the advertisement did not breach any other section of the FCAI Code, the Panel dismissed the complaint.