



Case Report

1	Case Number	0136/10
2	Advertiser	Ateco Automotive Pty Limited
3	Product	Vehicles
4	Type of Advertisement / media	TV
5	Date of Determination	28/04/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety within prevailing Community Standards
Motor vehicles Speeding

DESCRIPTION OF THE ADVERTISEMENT

This TV advertisement by Ateco Automotive Pty Ltd for the new MiTo Alpha Romeo (overseas model was shown) opens with text “You were born screaming. What Happened”? below image of distressed baby crying. The next sound is of a revving car and fast-paced guitar music with image of red car travelling through rocky, mountainous terrain which sprayed dirt as it skidded around a corner and then drove into a tunnel. Voiceover - Introducing the new MiTo from Alpha Romeo “Know you’re Alive” and end scene of Alpha Romeo logo

THE COMPLAINT

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

Red is a masculine colour and represents heat energy and aggression. This colour stands out vividly on a black and white background and the fast rock music and engine revving sounds can only be to underline that aggressiveness and energy already incited by the visual imagery. This is an advertisement designed to inflame and incite - or in modern parlance 'to wind up'. Since 19 P plate drivers have died on our roads in less than two months and most of them in circumstances involving reckless driving i find this kind of advertising by alfa romeo very irresponsible. I am prepared to admit that the average common and garden P plate driver would probably not be able to afford an Alfa Romeo yet in the recent hooor smash at Colyton that killed three young people the driver was in possession of a fast sports model Mazda

which by law he should not have been driving at all given that he was a restricted P Plate driver.

I also do not deny that Alfa Romeo have the right to sell cars and I agree that the ultimate responsibility for road safety lies with the driver - yet science has proven that we do not have a full brain until the age of 25. Surely Alfa Romeo could promote their cars with less aggression and without obvious market targeting to young men who do not yet have a full brain

THE ADVERTISER'S RESPONSE

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

We have considered the complaint and the advertisement in question in light of the provisions of the AANA Code of Ethics ("the Code") and the Voluntary Code of Practice of Motor Vehicle Advertising set by the Federal Chamber of Automotive Industries ("FCAI Code"). We note that the nature of the complaint relates generally to the FCAI Code and specifically to the concern that the ad in question contains imagery that is alleged to depict unsafe driving practices.

We have carefully considered the Code and FCAI Code, and have assessed the provisions against the content of this advertisement. We submit that the advertisement does not breach the Code or the FCAI Code on any of the grounds set out in the same.

Looking at the Code, Provision 2.7 provides that advertisements for motor vehicles must comply with the FCAI Code. We note that the advertisement does not contain any material relevant to any other section of the Code.

Looking at the FCAI Code, Provision 2(a) provides that advertisements for motor vehicles shall not portray "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." Further, Provision 2(b) provides that advertisements for motor vehicles shall not portray "people driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast."

We note the complainant's concern that the vehicle is being driven "at speed", however, there is nothing in the advertisement that indicates that the vehicle is being driven in excess of the speed limit. We note that all driving scenes take place on a freeway/open road scenario rather than an urban environment. Therefore, whilst the vehicle may appear to be driving fast, there is no suggestion that the speed is inappropriate for the road it is travelling on.

Further, at all times the vehicle is placed in between the lines marked on the road, and the vehicle does not appear to be out of control, or driving in a menacing or threatening manner. We note that there are no other vehicles or people present in the advertisement. Accordingly, we note that when considering whether any breach of the road rules has taken place, the

Board's consistently stated view is that where there is no evidence of a breach of the rules, there should not be an assumption that the rules are not being followed. In this respect we refer specifically to the recent decision of Case No. 511/09, in which the Board expressed this view with regards to a seatbelt being worn in a recent Land Rover TVC.

With regards to the complainant's specific concerns regarding the juxtaposition of the colour of the vehicle with the black and white background, and the music amounting to an alleged "aggressive" tone, we note that the intention of the advertisement is to illicit an emotional response in the viewer, causing them to recall the last time they were excited about something. This is highlighted by the lines "You Were Born Screaming. What Happened?" and "Know You're Alive". The intended message is that many people have now lost the excitement in their lives, and should rekindle their excitement by purchasing an Alfa Romeo Mito.

We note the music is a fast-paced rock guitar track, however we note it is instrumental and not aggressive in tone or lyrical content. In any case, in our view the colour of the vehicle and the music in the advertisement are not material to the portrayal of driving practices themselves.

We note the Board has previously considered issues related to aggressive tones generally in motor vehicle advertising in its decision in Case No. 243/09. The complaint regarded a Mercedes Benz advertisement which used words such as "wicked beast" and "aggressive" to describe the vehicle and its features. We note that the Board took the view that those words were not likely to be interpreted negatively.

Further, we note that the ASB has previously considered a related print version of this Alfa Romeo advertisement in 2009, in Case No. 363/09. We note that, as per the ASB's standard practice, the advertisement was assessed in relation to all applicable codes, and not just the grounds raised by a complainant. We note that complaints against this particular advertisement were dismissed.

Therefore, there is scope for similar considerations to apply here, as, in our view, the advertisement is not likely to be attributed to speeding by a reasonable person.

In summary, in our view, the advertisement does not depict unsafe driving practices nor does it depict material suggesting the car is being driven in excess of the speed limit.

For the above reasons we submit that the advertisement is not in breach of the Code or the FCAI 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 the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising ("the FCAI Code").

The Board noted the complainant's concern that the depiction of a red car with loud music and engine revving noises is encouraging unsafe driving.

The Board considered whether the advertisement was in breach of section 2(a) of the FCAI Code. Section 2(a) of the FCAI Code refers to the portrayal of unsafe driving, including reckless and menacing driving, that would breach any Commonwealth law or the law of any State or Territory.

The Board considered that the depiction of a car of a particular colour did not, of itself, suggest unsafe driving. In considering the overall impression that a consumer would take from this advertisement, the Board observed the visual imagery and scale of the red vehicle, within the context of the background scenery and the language used. The Board carefully considered the entire advertisement including the music and engine noises. The Board considered that the overall impression of the advertisement is of a powerful vehicle but that the depictions in the advertisement do not amount to a suggestion of unsafe driving. The Board considered that the vehicle appeared to be driven in a safe manner.

The Board also considered whether the advertisement complied with section 2(b) of the FCAI Code. The Board reviewed the advertisement and considered the image of crying baby and caption underneath: “You were born screaming. What happened?” together with a reference to voiceover “Know you’re Alive”. The Board considered the reference to the words “know you are alive” in the advertisement was a reference to being invigorated by the styling and handling capability of the vehicle. Having regard to the response provided by the advertiser, the Board agreed that the language used in the advertisement was to prompt the viewer to consider the last time that they had been excited. Members of the Board felt that the advertisement’s references to screaming were not a suggestion of excessive speed. The Board agreed that it was not discernible from the image or wording that the vehicle was speeding or driving in a reckless manner. The Board considered the reference to the caption: “born screaming” in this context and agreed that the advertisement did not suggest excessive speed or unsafe driving and therefore, was not in breach of section 2(a) or (b) of the FCAI Code.

The Board considered that there were no depictions in the advertisement which suggested that the vehicle was driving at a speed in excess of any relevant speed limit and that the advertisement did not breach section 2(b).

The Board noted that in two parts of the advertisement there appears to be a wheel drift. The Board considered that these depictions were in the context of the vehicle being driven in a safe manner and did not amount to a depiction that would breach section 2(a) of the FCAI Code.

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