



Case Report

1	Case Number	0143/11
2	Advertiser	BMW Group Australia Ltd
3	Product	Vehicles
4	Type of Advertisement / media	TV
5	Date of Determination	27/04/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

Motor vehicles Unsafe driving
2.6 - Health and Safety within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The commercial starts with a car reversing into a garage. Two children are visible in front of the car, out of the way as the car reverses. The floor of the garage is scattered with objects. We then see the driver of the car consulting the BMW Top View TV monitor which allows him to reverse the car knowing exactly what is around the vehicle, allowing the driver to concentrate on maneuvering the vehicle with full knowledge of his surroundings.

The Voice over says "Keeping an eye on things..... The BMW 5 series with surround view. Innovation in its most beautiful form"

We see him park the car without hitting any of the objects on the garage floor. We then end the TVC with an exterior view of the parked car in the garage, and the children outside.

THE COMPLAINT

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

Seeing isn't child safety.

Regardless of the clever technology no responsible sane parent would EVER drive a car that close to two very young unsupervised unrestrained children. It's sheer and utter madness! It made my teeth itch.

Despite the clever technology the potential for a child to simply see a toy under the car and go for it is still there and the driver may not be able to react in time. Despite the clever camera technology.

I believe this one of the most irresponsible and ludicrous piece of role-modeling I've ever seen. The ad is irresponsible in the extreme and if nothing else gives parents a false sense of security.

It needs to be removed.

There are children standing close by and watching. There have been many deaths of children with cars reversing in driveways etc and children should be well out of the way.

THE ADVERTISER'S RESPONSE

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

The commercial in question is one in a series of three 15 second commercials developed for the BMW 5 Series sedan. Each of the commercials showcases an area of leadership and innovation as far as the 5 Series is concerned. BMW understands and supports desired Road Safety messages and the particular commercial referred to highlights the safety of the BMW 5 Series through a feature called "Surround View". Surround View is essentially a safety system within the car whereby cameras provide a 360 degree view of the area around the car in so doing allows the car to be parked with full visibility of the objects around it, allowing the driver to concentrate on manoeuvring the vehicle more safely and securely. Parking a car is safer with Surround View.

In the commercial the effectiveness of Surround View is demonstrated by the driver being able to manoeuvre the car into a garage and around objects on the floor with 360 degree full visibility. The two children in the commercial are only ever seen in front of the car and to the side, and are never in the way of the reversing car, are never close to any of the objects on the floor, never look concerned or scared by the car and driver, and do not act erratically. The commercial does not in any way depict or condone reckless or dangerous driving. Quite the opposite in fact with the car only moving at very low speed, the driver fully engaged, with a 360 degree view of what is going on around him, and no children being shown in a dangerous position relative to the position and movement of the car.

Safety is a key feature of the BMW brand and many of our advertising messages communicate the safety equipment found in our cars. In the particular commercial referred to here we believe we have clearly communicated another safety innovation from BMW (Surround View) and have done so in a way that supports the advice and spirit of the Voluntary Code of Practice for Motor Vehicle Advertising.

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).

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 BMW 5 Series 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 BMW 5 Series 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.

The Board noted the complainants' concerns that the advertisement is irresponsible in its depiction of a car reversing next to unsupervised, small children.

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 advertisement shows a BMW 5 Series being reversed in to a garage whilst two small children watch. The Board noted that the purpose of the advertisement was to highlight the car's surround view capability which according to the advertiser is "...a safety system within the car whereby cameras provide a 360 degree view of the area around the car..."

The Board noted that the car is being driven very slowly and that the male driver is aware that the children are there. The Board also noted that the children are watching the car being reversed and are stood to the side of the garage, and that they do not move whilst the car is being reversed. The Board acknowledged the tragedy of young children being run over in

their own driveways but considered that the current advertisement depicts a very careful driver, fully aware of where the children are and driving slowly enough to be able to stop quickly if needed.

The Board considered that the message of the advertisement is one of safe driving and that this message is carefully portrayed.

On the above basis, the Board determined that the advertisement does not depict unsafe driving that would breach any law and does not breach clause 2(a) of the FCAI Code.

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