



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0175-21
2. Advertiser :	KIA Automotive Australia
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	23-Jun-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(a) Unsafe driving
FCAI Motor Vehicle Advertising Code\2(b) Breaking the speed limit

DESCRIPTION OF ADVERTISEMENT

This television advertisement features three vehicles driving together on an airstrip.

THE COMPLAINT

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

In my humble opinion, I think that this an unsuitable advertisement as it implies that racing of family vehicles is ok! There is far too many people speeding on our roads without ads implying that it's okay.

THE ADVERTISER'S RESPONSE

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

We refer to your letter of 10 June 2021, concerning the complaint received by Ad Standards in respect of Kia Australia's (Kia) television advertisement (Advertisement).



The complainant alleges that the Advertisement raises issues under clauses 2(a) and 2(b) 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 that the Advertisement infringes clause 2 of the Code or any other clause of the Code.

Background to the Advertisement

The Advertisement was created to promote the Kia Sorento, Seltos and Carnival (Kia cars), each of which are part of the Kia range.

The Advertisement is a classic “range” advertisement, intended to illustrate the aesthetics of Kia’s new car range and the company’s new design language. The Advertisement is intended to target a broad range of consumers across various demographics.

The Advertisement is a modified version of the original version of the Advertisement which was broadcast on 8 February 2021 to coincide with the Australian Open. Ad Standards received complaints in relation to the original version of the Advertisement and, following the Ad Standards Community Panel’s determination on 24 February 2021 upholding those complaints (see case number 0036-21) (Panel’s Determination), Kia ceased broadcasting the original version of the Advertisement on 8 March 2021. Kia modified the original version of the Advertisement to address the findings made in the Panel’s Determination and to ensure that the Advertisement fully complied with the Code.

The Advertisement has been broadcast in all States and Territories of Australia since 1 May 2021. The Advertisement has been broadcast online on Kia’s YouTube and social channels since 1 May 2021.

The Advertisement

The purpose of the Advertisement is to showcase the aesthetics of Kia’s new car range and the company’s new design language.

The Advertisement opens with an overhead shot of the airstrip located in the Shellharbour City Council. The Kia cars are driving on a wide airstrip that is clearly situated in a remote area. There are no pedestrians or cars on the airstrip and the Kia cars are at all times driving at safe distances from each other. A high angle shot displays the Kia cars driving in formation and then an eye level shot shows the Kia cars driving close to the camera.

The number plates “SRENTO” “CARNVL” and “SELTOS” indicate the different Kia models.

A low angle, close up shot of the wheels of the middle car further enhance the aesthetics of the car and showcases the new design language.



The Kia cars are shown from behind driving forward away from the camera. The Sorento model is shown from the front approaching the camera. The screen is blacked out and the tagline "Good genes run in the family" appears. The Kia cars return to the screen and the Carnival model approaches the camera. The screen is blacked out and the tagline "This is Kia" appears, followed by the Kia logo situated on top of the tagline "Movement that inspires"

The Advertisement was shot under controlled circumstances using professional drivers Ben Toya, Harry Bates and Fernando Wiehrl, on a closed airstrip. The Advertisement was choreographed by a qualified professional, Harry Dakanalis, who assessed the safety of the driving and coordinated the drivers through headsets.

Kia confirms that all times during the Advertisement the Kia cars are shown to be travelling within the legal speed limits in the jurisdictions in which the Advertisement was broadcast.

In order to film the Advertisement on the closed airstrip, the production company was required to obtain relevant permits, including permission from Shellharbour City Council for the exclusive hire of the airstrip.

From 00:02 to 00:11 and from 00:19 to 00:23 of the Advertisement, a prominently featured super is displayed which states "Filmed with professional drivers on a closed course under controlled conditions."

The complaint

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

The Advertisement does not depict unsafe driving

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

Clause 2(a) of the Code provides that advertisers should ensure that advertisements of motor vehicles do not portray unsafe driving, including reckless or menacing driving. The driving, whilst dynamic and skilful, is not reckless or menacing, nor does it show the Kia cars being driven in a manner that resembles the "racing of family vehicles" as argued by the complainant. The Advertisement is clearly filmed on a closed runway, and the drivers are at all times in complete control of the vehicles and are driving in a controlled manner.

The intention of the Advertisement is not to promote the speed capacity of the Kia cars, but rather to emphasise the aesthetics of Kia's new car range. The Advertisement was shot under controlled circumstances using professional drivers and a disclaimer was displayed on screen which states "Filmed with professional drivers on a closed course under controlled conditions."



Although the Kia cars appear to be going quickly, there is no actual indication that the speed of the vehicle is above that of a safe speed and Kia considers that speed at which the vehicle is travelling is appropriate for the conditions shown. Although at points in the Advertisement the vehicle's acceleration is audible, there is nothing over-the-top or reckless about this depiction.

In response to the Determination, the advertiser modified the Advertisement to remove a scene depicting three vehicles performing a 'J turn', a driving manoeuvre in which a reversing vehicle is spun 180 degrees and continues, facing forward, without changing direction of travel. No other scenes in the original version of the Advertisement were considered by the Panel to be in contravention of clause 2(a) of the Code.

*2. The Advertisement does not depict driving in excess speed limits
The Advertisement does not depict people driving at speed in excess of speed limits in contravention of clause 2(b) of the Code.*

As set out above, at all times during the Advertisement the Kia cars are shown to be travelling within the legal speed limits in the relevant jurisdictions in which the Advertisement was broadcast, and at no time during the Advertisement is there any indication that the Kia cars are travelling in excess of the legal speed limits in the relevant jurisdictions in which the Advertisement was broadcast.

The Advertisement is not intended to promote the speed capacity of the Kia cars. The purpose of the Advertisement is to demonstrate to the audience, Kia's new design language and direction.

*We note that in the Panel's Determination, the Panel stated that:
... while there may be an impression of speed due to the sound of the engines and the camera techniques used, the vehicles do not appear to be driving at excessive speeds. In reaching a decision that the Advertisement did not contravene clause 2(b) of the Code, the Panel determined that:
... there is no indication that any vehicle was exceeding the speed limit and that while it is unclear what speed was reached, it is unlikely to have been a speed which breached the law.*

*3. The Advertisement does not depict driving that would breach road safety or traffic regulations
The Advertisement does not depict driving which would, if it was to take place on a road or road-related area, breach any road safety or traffic regulation in contravention of clause 2(c) of the Code.*

First, applying the Panel's Determination in respect of the original version of the Advertisement, no scenes in the original version of the Advertisement were considered to be in contravention of clause 2(c) of the Code (other than presumably the scene depicting the vehicles doing a 'J turn' which was removed from the Advertisement and which the Panel dealt with under clause 2(a) of the Code).



Secondly, regarding the complainant's specific concerns that the Advertisement promotes the racing of family vehicles, there is no suggestion in the Advertisement that the vehicles are racing or that the driving shown is associated with normal on-road use of motor vehicles. The visible lines on the runway clearly indicate that the location is a closed airstrip. Reasonable viewers would understand the Advertisement to have been shot on a closed airstrip, in order to demonstrate the Kia cars in a classic "range" style of advertisement.

There are no pedestrians or other cars in the Advertisement and the Kia cars are at all times driven at safe distances from one another.

Kia engaged various safety measures in order to conduct the filming of this advertisement, including having a safety supervisor on site.

In light of these factors, we respectfully submit that the Advertisement does not and could not be considered by any reasonable person to encourage or condone unsafe copycat behaviour in breach 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 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 implies that the vehicles are racing and that promoting such behaviour is unsafe.

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

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 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 vehicle depicted were a Motor Vehicles 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.

The Panel then analysed specific sections of the FCAI Code and their application to the advertisement.

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.

The Panel noted the complainant's concern that the advertisement depicts and promotes vehicles racing.

The Panel considered that the vehicle in the advertisement do not appear to be racing each other, rather they are driving in a changing formation in order to showcase the style of each vehicle.

The Panel considered that depicting three vehicles driving side by side is not itself a depiction of unsafe driving and considered that there is no imagery in the advertisement which suggests the vehicles are being driven in an unsafe manner.

Clause 2(a) conclusion

The Panel considered that the advertisement did not breach Clause 2(a) of the FCAI Code.

Clause 2(b) - Advertisements for motor vehicles do 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.

The Panel noted that it is unclear what the speed limit was on the roads shown in the advertisement and that the speed of the drivers is unclear. The Panel considered that while there may be an impression of speed due to the sound of the engines and the camera techniques used, the vehicles do not appear to be driving at excessive speeds.

The Panel noted that the feeling of the advertisement is one of speed however considered that there is no indication in the advertisement that any vehicle was exceeding the speed limit.

Clause 2(b) conclusion



The Panel considered that the advertisement did not breach Clause 2(b) of the FCAI Code.

Conclusion

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