



Case Report

1	Case Number	0178/13
2	Advertiser	Ford Motor Co of Aust Ltd
3	Product	Vehicle
4	Type of Advertisement / media	Internet
5	Date of Determination	12/06/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(c) Driving practice that would breach the law

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement features the hosts of The Voice, Faustina Agolley and Darren McMullen meeting with a lab coat clad “Ford technician” in a top-secret garage location. Faustina and Darren are about to head to a filming of The Voice and the Ford technician is handing over to the pair the keys to a brand new Ford Kuga Titanium. The Ford technician is portrayed as being extremely proud of the vehicle that he has helped develop, much like a proud parent, and he explains in an overly enthusiastic and serious manner the key technology features of the vehicle which includes the optional active city stop feature.

Darren and Faustina are clearly very excited to just jump in and take the vehicle for a drive, whereas the Ford technician is concerned that they look after the vehicle which he feels very proud and protective of. This is conveyed by the technician asking them to “try to bring it back in one piece” to which Darren replies “don’t worry, we’ll take good care of it”.

The Advertisement depicts the vehicle stationary in a garage for the majority of the Advertisement and the vehicle is only shown driving in the final sequence when Darren drives the vehicle out of the garage location and onto the road.

THE COMPLAINT

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

FCAI asks advertisers to be mindful of the importance of road safety and to ensure that advertising for motor vehicles does not contradict road safety messages or undermine efforts to achieve improved road safety outcomes in Australia.

Advertisers should ensure that advertisements do not depict, encourage or condone dangerous, illegal, aggressive or reckless driving.

I wish to complain about Ford Kuga advertising which encourages unsafe behaviour (i.e. distracted drivers) because the car "can stop itself in city traffic if you get distracted (with a giggle)".

Also, the phrase "Bring it back in one piece" seems to encourage extreme driving behaviour which may include crashing.

This ad should be stopped. Many crashes are caused by distracted driving. This is a problem.

While automatic braking may reduce crashes, it should not be promoted as a means to facilitate distracted driving.

Please respond to me.

THE ADVERTISER'S RESPONSE

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

At the outset, I would like to emphasise that Ford Australia takes seriously its commitment to the AANA Code of Ethics (AANA Code) and the FCAI Voluntary Code of Practice for Motor Vehicle Advertising (FCAI Code) and we are aware of the potential impact that our advertising may have on members of the public.

All of our advertising, including the Advertisement, is carefully reviewed in that context and is approved by legal counsel. In this instance, we firmly believe that the scenario depicted in the Advertisement does not breach the AANA Code or the FCAI Code.

The complaint referred to in your letter dated 21 May 2013 alleges that the Advertisement contravenes Section 2(c) of the FCAI Voluntary Code of Practice for Motor Vehicle Advertising (FCAI Code). Section 2(c) provides that advertisers should ensure that advertisements for motor vehicles do not portray "Driving practices or other actions which would, if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation." Section 2(c) includes as examples of offending conduct "Illegal use of hand-held mobile phones or not wearing seatbelts in a moving motor vehicle". The complainant expresses concern that the Advertisement encourages unsafe, distracted driving by referencing the active city stop feature and that it encourages extreme driving behaviour by featuring the phrase "Bring it back in one piece".

You have indicated that the Board will review the Advertisement against the FCAI Code and in its entirety against section 2 of the AANA Code, and accordingly, our response should address any issues within the Advertisement that fall broadly within Section 2 of the AANA Code, as well as the FCAI Code.

Allegation that advertisement contravenes Section 2(c) of the FCAI Code

Ford Australia strongly disagrees with any allegation that the Advertisement depicts driving practices or other actions which would, if they were to take place on a road or road-related area, breach any laws or rules relating to road safety or traffic regulation.

As mentioned above, the Advertisement depicts the vehicle driving in the final scene only and for a total duration of around 2-3 seconds of the Advertisement. The vehicle is driven directly out of a garage door onto a road. The Advertisement does not in any way depict driving practices or other actions that could be considered to breach any road safety laws or rules or traffic regulations.

Issues arising under section 2 of the AANA Code or the FCAI Code generally

Ford Australia submits that no issues arise under the FCAI Code or other provisions in section 2 of the AANA Code. The Advertisement:

(a) does 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, gender, age, sexual preference, religion, disability, mental illness or political belief (Section 2.1 of the AANA Code);

(b) does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people (Section 2.2 of the AANA Code);

(c) does not present or portray violence unless it is justifiable in the context of the product or service advertised (Section 2.3 of the AANA Code);

(d) does treat sex, sexuality and nudity with sensitivity to the relevant audience (Section 2.4 of the AANA Code);

(e) does only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium) (Section 2.5 of the AANA Code); and

(f) does not depict material contrary to prevailing community standards on health and safety.

As for the FCAI Code, the Advertisement does not raise issues under this code as it does not depict:

(a) 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;

(b) people driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast;

(c) driving practices or other actions which would, if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation;

(d) people driving while being apparently fatigued, or under the influence of drugs or alcohol to the extent that such driving practices 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 directly with road safety or traffic regulation; or

(e) deliberate and significant environmental damage.

If the ASB considers that any other issues arise under either of the codes, Ford requests the opportunity to be informed of the ASB's views in that regard so that an appropriate response can be made.

Ford Australia strongly believes that the Advertisement does not breach the FCAI Code and AANA Code. I trust that this correspondence adequately addresses the concerns raised in the complaints referenced, however, I would be grateful if you would contact me if you have any questions or would benefit from further input or assistance from Ford Australia.

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).

The Board noted the complainants concerns that the advertisement encourages and condones dangerous and unsafe driving behaviour.

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 Fiat 500 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 Ford Kuga is 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 that the advertisement features footage of the 'specialist' in a laboratory coat talking through the features of the vehicle with the hosts from the reality television show, The Voice. The specialist highlights a feature of the vehicle that assists with parking and also the sound system that is voice activated.

The Board considered clause 2(c) of the FCAI Code. Clause 2(c) requires that: Advertisements for motor vehicles do not portray ...driving practices or other actions which would if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation.

(examples: illegal use of hand-held mobile phones or not wearing seat belts in a moving motor vehicle. Motor cyclists or their passengers not wearing an approved safety helmet, while the motorcycle is in motion]."

The Board noted that the advertisement includes footage of the Kuga in a stationary position inside a warehouse and the features are shown while the vehicle is parked.

The Board noted that the particular features relating to park assist and voice activation are features that have been included because of the new technology rather than as a means to encourage drivers to become careless and unsafe.

The Board considered that as the vehicle is not driven in the advertisement it is not possible

to determine whether the vehicle is being driven in a manner that could breach any driving related laws and that the reference to “in case you become distracted” is light hearted and play on the familiarity that viewers are likely to have with the hosts of The Voice.

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

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