



**Ad Standards** Community Panel  
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Advertising Standards Bureau Limited  
ACN 084 452 666

## Case Report

1	Case Number	0192/19
2	Advertiser	Fiat Chrysler Australia Pty Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	26/06/2019
6	DETERMINATION	Dismissed

### ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving  
FCAI Motor Vehicles 2(b) Breaking the speed limit

### DESCRIPTION OF THE ADVERTISEMENT

The advertisement depicts the Jeep Trackhawk driving within a natural environment, as well as illustrating the power of the vehicle on a closed course with a professional driver.

### THE COMPLAINT

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

*It alludes to/ suggests speed and emphasis of racing type performance/ power.*

### THE ADVERTISER'S RESPONSE





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

*To whom it may concern*

*Fiat Chrysler Australia Pty Ltd – Complaint Reference 0192/19*

*I refer to your email attaching the Ads Standards Notice of Complaint letter dated 18 June 2019 regarding the JEEP Trackhawk TVC (Trackhawk TVC).*

*FCA Australia Pty Ltd (FCA Australia) takes its responsibility as an advertiser very seriously. We make extensive efforts to understand and respond appropriately to community concerns and issues. Over and above this, we have established our own internal review and approval process, which includes obtaining legal advice.*

*Additionally, we adhere to the Commercials Acceptance Division (CAD) pre-approval process to ensure suitability before production or publication begins as well as final approval classification before the commercial is aired. This is both a rigorous and robust process.*

*We have carefully considered the complaint made and do not agree with the concerns put forward by the complainant.*

*Whilst we respect the right of personal opinion, we believe that this complaint does not accurately or fairly represent the content, tone or intention of the advertisement. It is FCA Australia's firm belief that the Trackhawk TVC does not breach the FCAI Code of Practice for Motor Vehicle Advertising (FCAI Code) nor the AANA Advertiser Code of Ethics (AANA Code).*

*We note that the complaint you have received relates to a perceived breach of the FCAI Code specifically clause 2, clause 3 and clause 4. The complainant expressed a concern that the Trackhawk TVC alluded to or suggested speed and an emphasis of racing type performance or power.*

*Please find below our response to the concerns raised by the complainant and your letter of 18 June 2019.*

*Description of the advertisement*

*The Jeep Trackhawk is a halo vehicle for the Jeep brand. Halo vehicles are usually those aspirational high performance vehicles within a brand and which carry with them a sense of exhilaration and excitement. The objective of the Trackhawk TVC campaign is to utilise the characteristics of the Jeep Trackhawk halo vehicle to create cut through in an extremely cluttered and competitive SUV market. With the*



*Trackhawk TVC, FCA Australia is able to make a claim that no other manufacturer can – i.e. being the most powerful SUV in the world. This is not an unusual marketing strategy whereby automotive brands seek to generate public interest in their high performance vehicles for the benefit of the brand more generally.*

*In terms of the intent behind the Trackhawk TVC, the advertisement is centered around highlighting the power of nature and drawing a comparison to the Jeep Trackhawk as its own force of nature in its capacity as the most powerful V8 SUV in the world.*

*As such, the key message the Trackhawk TVC sought to generate surrounded the campaign tagline 'The Most Powerful SUV on Earth'.*

*The advertisement depicts the Jeep Trackhawk driving within a natural environment, as well as illustrating the power of the vehicle on a closed course with a professional driver. Not only does the Trackhawk TVC seek to identify that the Jeep Trackhawk is its own force of nature but that it also has the performance capability on the open road, on the closed circuit race track and off road.*

*Digital copy of the Trackhawk TVC*

*An electronic copy of the 30 second Trackhawk TVC is provided as part of this response as this would have been the version of the Trackhawk TVC that the complainant would have seen.*

*The CAD reference number and CAD rating*

*This advertisement was created entirely from footage filmed in the USA. FCA Australia created the 30-second TVC by editing the footage locally.*

*The advertisement was CAD approved with a G rating.*

*The Trackhawk TVC has been broadcast across all States and Territories of Australia on television, in cinemas and has also been made available on the internet.*

*The Trackhawk TVC campaign consisted of:*

- a 30 second and 15 second TVC aired between 3 - 22 June 2019;*
- a 15 second online TVC between 3 - 30 June 2019; and*
- a 45 second cinema preview that commenced on 3 June 2019 and is planned to run through until 30 June 2019.*

*Section 2 of the AANA Code*

*FCA Australia is fully supportive of the AANA Code.*

*By virtue of section 2.6 of the AANA Code of Ethics which reads as follows:*

*2.6 Advertising or Marketing Communication shall not depict material contrary to*



*Prevailing Community Standards on health and safety.*

*And the Code of Ethics: Practice Note, which reads as follows:*

*“Motor Vehicle advertisements are subject to the health and safety section. This means that a motor vehicle advertisement cannot depict images contrary to public health and safety notwithstanding the images being unrelated to the motor vehicle advertised.”*

*The Trackhawk TVC was compiled with the AANA Code of Ethics in mind and the spirit and intention of both the AANA Code of Ethics and the FCAI Code. FCA Australia’s contention, as supported below, is that the Trackhawk TVC complies with the FCAI Code, substantively but also in spirit and intent, and therefore section 2 of the AANA Code.*

*The advertisement seeks to convey that the Trackhawk is an enjoyable, athletic and exciting vehicle. Indeed, this is the very point of the advertisement, to convey the sort of feeling that a driver and passenger can expect from driving the new JEEP Trackhawk. It is FCA Australia’s view that a driver can and should be exhilarated by the driving experience of a high performance vehicle without driving illegally or in an unsafe manner. For example, such exhilaration can be enjoyed through the cornering and controlled acceleration of a well-engineered vehicle. It is that level of controlled exhilaration which is sought to be depicted in this advertisement. The sounds, angles and types of roads all convey that feeling.*

*FCA Australia is of the view that the ad does not allude to or suggest speed to the detriment of any safety issues. At no point during the Trackhawk TVC is the vehicle driven in a dangerous and/or unsafe manner.*

*FCAI Code: Clause 2 – General Provision*

*Clause 2 of the FCAI Code requires that advertisers ensure that advertisements for motor vehicles not portray unsafe driving, including speeding or other practices which would contravene road safety regulations, if they were to take place on a road or road-related area.*

*Other factual references to the capabilities of the motor vehicle (for example, cylinder capacity, kilowatt power of the engine, or maximum torque generated) are acceptable, provided that they are presented in a manner that is consistent with the provisions of the FCAI Code.*

*The driving depicted in the Trackhawk TVC is not unsafe, reckless or menacing. It cannot be seen to be breaching any Commonwealth law or the law of any State or Territory of Australia.*

*Furthermore, the vehicle is not travelling at an excessive speed nor involved in any*



*sudden, extreme or unnecessary changes in direction. The direction and speed of the Jeep Trackhawk depicted in the advertisement is constant.*

*There is no evidence within the Trackhawk TVC of the vehicle driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement was published or broadcast.*

*There is also no evidence in the advertisement which indicates that the Jeep Trackhawk is speeding or breaching any road rule, and the complainant's suggestion that that the scenes of the Trackhawk TVC alluded to or suggested speed and an emphasis of racing type performance or power could likely be explained by the quick editing used by the producers of the advertisement and coupled with the up-beat background music. By the complainants own admission, the Trackhawk TVC alludes to or suggests that the JEEP Trackhawk was being driven at high speed. Nothing in the advertisement, other than the quick editing techniques used, supports that the Jeep Trackhawk was travelling at high speed.*

*Contrary to the complainant's view, it does not automatically follow that the Trackhawk TVC was intended to portray speed and an emphasis of racing type performance or power by which we assume the complainant means "speeding". Simply because Trackhawk TVC is cut and edited in a quick-shot manner, it should not automatically be assumed that this means that the vehicle is speeding or driving recklessly or illegally, or that the advertisement somehow depicts, encourages or condones such behaviours. It is also worth noting that there are clearly audible engine tones within the advertisement to provide an idea of the sound of the vehicle's engine under acceleration, and again, this is not banned under the FCAI Code and nor does it, of itself, imply unsafe, illegal or reckless driving or speeding. In the context of the Trackhawk TVC the engine sounds combined with the editing and up-beat background music seeks to provide the viewer with an emotional connection to the exhilaration and enjoyment that can come from driving a high performance vehicle, and at no time is there any speeding or unsafe driving pictured as a result of the engine revving.*

*Finally, the most accurate consideration of the manner in which the Jeep Trackhawk is being driven throughout the advertisement can be made from the final few seconds of the advertisement, where the framing and editing of the advertisement is returned to a more conventional or "normal" state of production. Indeed, these final few seconds of the advertisement are perhaps easier to assess in terms of the depiction of the driving because of the nature of the editing, and should assist satisfying the Panel in this case of the vast difference between unsafe/reckless driving/speeding and quick-shot editing.*

*FCAI Code: Clause 3 – Use of Motor Sport in Advertising*

*Clause 3 of the FCAI Code provides that advertisers may make use of scenes of motor sport, simulated motor sport, or vehicle testing or proving, provided that such scenes*



*are clearly identifiable as part of an organised activity of a type which would normally be permitted in Australia and that they also conform to general safety requirements associated with such activities.*

*The FCAI Code requires that any racing or competing vehicles depicted in scenes of motor sport should be in clearly identifiable racing livery.*

*FCA Australia notes that the Trackhawk TVC is not an advertisement that depicted any racing or competing vehicles and therefore the Jeep Trackhawk is not clearly identifiable in racing livery. The Trackhawk TVC does, between the 15 and 17 second mark exhibit the performance of the Jeep Trackhawk on a closed circuit track. This is evidenced by the red and white curb markings in this section of the advertisement. Rather than show case the speed of the vehicle this section is supporting the handling capabilities of the Jeep Trackhawk.*

*There are no other vehicles on track or depicted during this part of the advertisement or at any other time.*

*During this section of the Trackhawk TVC, although not in itself sufficient, there is a disclaimer relating to professional driving capabilities on a closed circuit. FCA Australia requests that the Panel consider the disclaimer not in the context that it is an attempt to circumvent the FCAI Code requirements but rather that FCA Australia has applied its mind to the circumstances required under the FCAI Code and has taken measures to assist manage any misconstrued notion that FCA Australia is advocating dangerous/reckless driving.*

#### *FCA Code: Clause 4 - Depiction of Off-Road Vehicles*

*The FCAI Code provides that advertisers may legitimately depict the capabilities and performance of 'off road vehicles' travelling over loose or unsealed surfaces, or uneven terrain, provided that such scenes do not involved unsafe driving and that such vehicles do not exceed speed limits.*

*This clause provides some limited flexibility allowing advertisers to legitimately demonstrate the capabilities and performance of such vehicles in an off-road context. In so doing however, care should be taken to ensure that all other provisions and the underlying objectives of the FCAI Code are still adhered to. In particular, advertisers should be mindful to ensure that advertisements for such vehicles do not involve the depiction of 'excessive' or 'unsafe' speed. Equally, advertisers should avoid portrayal of images of off-road driving which could otherwise be construed as being unsafe.*

*The Trackhawk TVC depicts very little by way of off road capability. At the 5 second mark there is a transition from a dust storm to the Jeep Trackhawk off road. There is also a section of footage that may be taken to be the Jeep Trackhawk being driven on an unsealed road and therefore off road at the 14 second mark. In neither cases is the*



*Jeep Trackhawk shown driving in what can be considered as being unsafe.*

#### *Conclusion*

*FCA Australia believes that the advertisement in question falls within all the guidelines outlined by both the FCAI Code and the AANA Code and that while we appreciate the complainant's concern we do not feel that the Trackhawk TVC breaches either code and therefore request that the Ad Standards Community Panel accordingly dismiss the complaint.*

### **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).

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 Jeep Trackhawk was 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.

The Panel noted the complainant's concern that the advertisement alludes to speed and emphasis of racing type performance.

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

The Panel noted that the motor vehicle advertisement begins by displaying statements on screen detailing the speed of lightning, wind and a hail storm with corresponding visuals, and that nature moves fast, before statements are displayed on screen including "V8 engine; 700 HP; the most powerful SUV on earth". Imagery includes scenes of the vehicle driving on non-urban roads and on a closed course.



The Panel 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 Panel noted the examples given in the FCAI Code include: 'Vehicles travelling at excessive speed; sudden, extreme and unnecessary changes in direction and speed of a motor vehicle...or the apparent and deliberate loss of control of a moving motor vehicle.'

The Panel noted the complainant's concern that the advertisement emphasises racing type performance/power.

The Panel noted the Guidance to Advertisers within the FCAI Code which states: "Other factual references to the capabilities of the motor vehicle (for example, cylinder capacity, kilowatt power of the engine, or maximum torque generated) are acceptable, provided that they are presented in a manner that is consistent with the provisions of the Code."

The Panel noted that the advertisement includes statements on screen including "V8 engine; 700 HP; the most powerful SUV on earth". The Panel considered that factual references to a vehicle's capabilities is not of itself a breach of the Code.

The Panel noted the advertiser's response that a driver can and should be exhilarated by the driving experience of a high performance vehicle without driving illegally or in an unsafe manner. The Panel further noted the advertiser's response that such exhilaration can be enjoyed through the cornering and controlled acceleration of a well-engineered vehicle, and it is that exhilaration which is sought to be depicted in the advertisement.

The Panel considered that while the advertisement does depict the vehicle travelling on a closed course and its handling capabilities, this is a demonstration of the product and the Panel considered that this is not a depiction of unsafe driving.

The Panel considered that the advertisement did not portray unsafe driving which would breach the law if it were to take place on a road or road-related area and did not breach Cause 2(a) of the FCAI Code.

The Panel considered clause 2(b) of the FCAI Code. Clause 2(b) requires that "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 the complainant’s concern that the advertisement alludes to speeding.

The Panel noted that the advertisement begins by displaying statements on screen detailing the speed of lightning, wind and a hail storm, and that nature moves fast before displaying statements on screen including “V8 engine; 700 HP; the most powerful SUV on earth”. The Panel considered that this could be interpreted as implying that the vehicle could outrun these weather events, however considered that that is not itself a depiction of speeding.

The Panel noted that several scenes depicted the vehicle from a low angle, particularly scenes filmed on a closed course, and considered that this camera technique does have the effect of making it seem as if the vehicle is moving quickly. However the Panel considered that there is no context to indicate that the vehicle was exceeding the speed limit in these scenes.

The Panel noted that other scenes showing the vehicle travelling on traditional roads in non-urban areas did not have the same effect of speed, and considered that many Australian roads similar to the ones depicted have a speed limit of 100-110km/h. The Panel considered that there is no indication that it 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.

The Panel considered that the advertisement does depict the sound of the engine but considered that this sound was indicative of pulling power rather than speed. The Panel considered that although the engine sound is prominent in the advertisement this is common for V8 models like the one in the advertisement and is not of itself a depiction of excessive speed.

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

Finding that the advertisement did not breach Cause 2(a) or 2(b) of the FCAI Code or any other section of the FCAI Code, the Panel dismissed the complaint.

## **INDEPENDENT REVIEWER'S RECOMMENDATION**



## **THE DETERMINATION ON REVIEW**

## **ADVERTISER'S RESPONSE TO IR DETERMINATION**

