



Case Report

1	Case Number	0206/17
2	Advertiser	Chrysler Australia Pty Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	24/05/2017
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 car in the ad is the Alfa Romeo Giulia Quadrifoglio. The car is being driven in Europe. The 30 second ad is a series of shots of just the car being driven. There are no people or other cars seen, not even the driver is visible except for one shot of the driver's hands on the wheel. The compilation of shots range from aerial shots of the car on the road, the direction of travel and the open nature of the Italian countryside. There are also a series of close ups on angles of the car including sides, wheels, bonnet, Alfa Romeo badge and exhaust. The ad concludes with a wide shot moving to a close up shot of the rear of the car. We hear a woman's voice narrate the ad throughout explaining the nature of the connection between herself and the car.

THE COMPLAINT

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

I object to this advertisement as I believe it should not depict behaviour which could be considered to be:

- 1. reckless, dangerous or illegal; and*
- 2. As an advertisement for a car it should avoid advertising messages based on speed, performance and acceleration.*

The car is shown driving, what I believe to be, at excessive speed and at one stage is shown to be approaching and driving around a sweeping right hand corner on the wrong side of the road. As it approaches the corner it crosses to the centre line would be to the inside and incorrect side of the road. Cars coming from the opposite direction would be hit head on.

THE ADVERTISER'S RESPONSE

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

This advert was filmed in Europe for Fiat Chrysler North America. It was screened during the 2016 Superbowl in a 1:19 length.

FCA Australia have taken this content and edited it to a 30 second advert and recorded a local voice over.

The footage we see is of a road that other than the Alfa Romeo Giulia is otherwise deserted, with no other vehicular or pedestrian traffic. The corners are open, with long lines of sight to any oncoming traffic.

The car is being driven safely. At no point in the commercial is the car close to losing grip or traction, it is being driven well within the dynamic limits of the vehicle.

FCA Australia has been informed by FCA North America that the vehicle was filmed on a closed road and that the vehicle was driven by a professional driver during filming. Accordingly the ad includes a super that appears over the driving footage: Professional drivers on closed course. Do not attempt.

The advert has been broadcast in Victoria, New South Wales and Western Australia only. It is planned to air in Queensland and South Australia later this year.

The advert has also been made available on the Alfa Romeo Australia Facebook page.

FCA considers that the ad does not depict:

- unsafe driving, or driving activities that would breach any laws in jurisdictions in which it was broadcast. In particular, the ad does not depict the vehicle travelling at excessive speed, or any sudden, extreme and unnecessary changes in direction and speed; people driving at speeds in excess of speed limits in the jurisdictions in which it was broadcast; or*
- driving practices or other actions which would breach any laws in jurisdictions in which it was broadcast.*

FCA Australia has been informed by FCA North America that all laws and speed limits were observed during filming.

The complaint alleges that "The car is shown driving, what I believe to be, at excessive speed and at one stage is shown to be approaching and driving around a sweeping right hand corner on the wrong side of the road. As it approaches the corner it crosses to the centre line would be to the inside and incorrect side of the road. Cars coming from the opposite

direction would be hit head on". This is not correct since the vehicle is actually being driven on a dual-lane road. In other words, the road caters for vehicles travelling in one direction only, and therefore there can be no oncoming traffic, nor risk of any head-on collision resulting from a lane change.

Please also note that the vehicle is being driven on the right-hand side of the road as the footage is from overseas. This is unavoidably the case since the source material is from an overseas market (where the vehicle is manufactured). There is a disclaimer indicating that the overseas model is shown.

Some visual effects have also been used that are actually camera zoom effects, and are not indicative of or a result of speeding by the vehicle/driver.

The ad seeks to convey an athletic, sporty and exciting feel to driving the Giulia. The sounds, angles and road surface all convey that feeling. That said, FCA is firmly of the view that the ad does not depict "reckless, dangerous or illegal" behavior as alleged. The vehicle is not performing any dangerous maneuvers.

FCA is of the view that the ad fully complies with the FCAI 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 then considered 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 Alfa Romeo Giulia 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 complainant's concerns that the advertisement depicts speeding and in one scene is on the wrong side of the road.

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 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 Board noted the advertisement features an Alfa Romeo Giulia driving along a winding road through some hillsides in Europe. A female voiceover tells the story of her feelings about the car and her new relationship with the vehicle.

The Board noted the complainant's concern that the advertisement depicts driving behaviour that is reckless as it crosses to the wrong side of the road.

The Board noted the advertiser's response that the advertisement was filmed on a closed road and the vehicle driven by a professional driver. The Board noted that a super does appear on screen stating "Professional driver on closed course. Do not attempt."

The Board noted that the beginning of the advertisement shows the vehicle on a road that has lines marked. The Board noted that vehicle is shown driving on the right hand side of the road indicating the advertisement is filmed overseas.

The Board noted that the advertisement was produced overseas and considered that the Practice Note for the FCAI Code provides that driving on the right hand side in overseas-made advertisements is not of itself a breach of the Code. The Board noted the scenes where the car approaches and sweeps around the bend and considered that the scene is fleeting and without clearly marked lines it is difficult to determine if the road is dual carriage or a single lane road.

The Board acknowledged that there is a level of community concern around unsafe driving practices and hoon behaviour but considered that the advertisement does not depict, condone or encourage dangerous driving.

The Board considered that overall the advertisement does not portray any driving which is unsafe, or reckless or menacing driving that would breach any Commonwealth law or the law of any State or Territory.

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

The Board then 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 Board noted the Explanatory Notes to the FCAI which state, "Advertisers should ensure

that advertisements...avoid explicitly or implicitly drawing attention to the acceleration or speed capabilities of a vehicle.”

The Board noted the complainant’s concern that the advertisement depicts vehicles speeding.

The Board noted the advertiser’s response that “speed limits were observed during filming.”

The Board noted that there is no indication of the speed the vehicle is being driven at in the advertisement or of the speed limits of the road the vehicle is driving on and considered that it is the editing of the advertisement which gives the illusion of speed. The Board considered that there is no accurate sense of the speed the vehicle is travelling, therefore the vehicles are not shown being driven in excess of applicable legal speed limits in the footage, nor are there any close up shots of a speedometer reading and reference to any speed limits being exceeded.

The Board determined that the advertisement did not depict excessive speeding and therefore did not breach Clause 2(b) of the FCAI Code.

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