



Case Report

1	Case Number	0209/13
2	Advertiser	Suzuki Australia Pty Limited
3	Product	Vehicle
4	Type of Advertisement / media	Pay TV
5	Date of Determination	10/07/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving
2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

A Suzuki is being driven through various levels of an indoor car park, setting off the sprinkler system as it travels past. The female passenger appears impressed and excited with the driving. Details of the vehicle price and loan rate are shown on screen.

THE COMPLAINT

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

TV Ad clearly shows yellow Suzuki Vehicle speeding through a multi-story car park under 'water sprinklers' on a wet surface. This does not present acceptable standards to younger drivers, like being 'safe' to speed inside any multi-level car parks.

This ad shows the car being driven very quickly through various levels of the car park and setting of the sprinkler system as it travels past. The female passenger is shown as being very impressed and excited with this kind of driving, fanning her face to keep cool and it even shows perspiration on her breasts. I believe research has shown that young drivers often drive recklessly and take risks in order to impress their passengers. It's impossible to escape the conclusion that this ad contains a not too subtle message that if you drive like a maniac, it will excite your girlfriend. I would classify the style of driving displayed as reckless and even furious which I believe is against the law.

THE ADVERTISER'S RESPONSE

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

Firstly, we would like to emphasise that Suzuki Australia Pty Ltd takes its responsibility to promote safe driving extremely seriously, in line with its quest to manufacture vehicles that achieve the highest possible safety ratings. The Suzuki Swift has achieved a 5 star ANCAP Safety rating and is the only car priced under \$17,000 that comes with 7 airbags as standard.

We also take very seriously our commitment to the AANA Code of Ethics ("AANA Code") and the Voluntary Code of Practice of Motor Vehicle Advertising set by the Federal Chamber of Automotive Industries ("FCAI Code"). We review our advertising carefully with the AANA Code and the FCAI Code in mind, including legal review and advice.

A previous version of the advertisement in question was assessed by the board in 2012. It was requested that images of an accelerator pedal being pushed and a tachometer be removed to ensure the ad met the FCAI Code. This was undertaken by Suzuki, represented by this current advertisement. Additionally, the Board did not consider the advertisement breached section 2.4 of the AANA Code (refer 0093/12).

We have carefully considered the AANA Code and FCAI Code, and have assessed the provisions against the content of this advertisement. We submit that the advertisement does not breach the AANA Code or the FCAI Code on any of the grounds set out in the same.

We note that the advertisement is a TVC for a motor vehicle and features that vehicle being driven in a public car park.

The Suzuki Swift Sport, depicted in the advertisement, is purchased evenly by both females (50.7%) and males (49.3%) with the main reason for purchase noted as the vehicles style and appearance (64.7% of customers describe this as the main purchase reason). Swift Sport owners also agree that the vehicle they drive makes a statement about who they are (72%). Accordingly, we have developed an advertisement with the core objective of making the vehicle look stylish and aspirational. As such, our theme is that the Swift Sport looks Hot.

The advertisement depicts a couple driving into a car park in their Swift Sport. There is a shimmer in the air to indicate that the temperature is hot. As they head to the top level, the car parks sprinklers are set off in a fantastical fashion because the Swift Sport looks "hot". At the same time, the vehicles passengers are also indicating that it is hot.

Throughout the advertisements, there are a high number of shots of the car from different angles, including stylised filming. At no point are there any depictions of unsafe, reckless or menacing driving that would breach any Commonwealth or State laws. We confirm that throughout the filming of the advertisement, the vehicle was always being driven at or below the speed limits in the car park and there are no indications to suggest otherwise. We confirm that all passengers were correctly wearing their seatbelts at all times and there was no illegal use of mobile phones. The car was being driven in a controlled manner throughout the advertisement.

It is our strong belief that the advertisement does not breach the FCAI Code. We also

consider that the advertisement does not breach any provision of the AANA Code.

For the reasons above, we request that this complaint be dismissed by the Board.

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 Voluntary Code of Practice for Motor Vehicle Advertising (the FCAI Code) and the Advertiser Code of Ethics (the 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 Suzuki Swift 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 Suzuki Swift 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 depicts the reckless driving of a car in a car park and a suggestion that driving in such a manner will encourage dangerous behaviour in young people.

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 examples given in the FCAI Code for unsafe driving include "Vehicles travelling at excessive speed; sudden, extreme and unnecessary changes in direction and speed of motor vehicle...or the apparent and deliberate loss of control of a moving motor vehicle."

The Board noted that the advertisement shows a Suzuki Swift being driven in a multi-storey car park and that this advertisement is the modified version of an advertisement considered by the Board in case reference 0093/12.

The Board noted that in case 0093/12 the advertisement opened with a scene showing the driver pressing his foot on the accelerator pedal followed by a view of the tachometer showing rapidly increasing engine revolutions and that the Board had upheld the complaints on the basis that "the combination of the accelerator pedal, the increase in engine revs and the sped up footage combine to give an overall impression of reckless speed which the Board considers to be a depiction of unsafe driving."

The Board noted that the advertiser had modified the advertisement based on the Board's findings so that the scenes showing the accelerator pedal and the tachometer are no longer shown and that a voiceover has been added to the footage which talks about the safety features of the vehicle.

The Board noted that the modified advertisement still includes scenes which have been sped up and considered that the advertisement does suggest fast driving. On balance the Board considered that the advertisement was clearly filmed in a controlled environment and the inclusion of a voiceover talking about safety features does amount to an overall depiction which is not strongly suggestive of unsafe driving.

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

The Board considered clause 2(c) of the FCAI Code. Clause 2(a) 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.'

The Board noted the complainant's concerns that the advertisement encourages young people to drive in a reckless manner in order to impress their passengers. The Board considered that although the woman is enjoying the drive in the car in the Board's view the link between the woman's enjoyment and the manner in which the vehicle is being driven is not so strong as to encourage young people to drive in a reckless manner.

The Board determined that the advertisement does not depict driving practices which would breach the law and does not breach clause 2(c) of the FCAI Code.

The Board then considered whether the advertisement was in breach of Section 2.4 of the Code of Ethics. Section 2.4 of the Code states: "Advertising or Marketing Communications

shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Board noted that the female passenger of the car is wearing a short, low cut dress and that whilst she is in the car there is a close up scene of her chest as she fans herself apparently to cool down.

The Board noted that whilst it is not necessary for the woman to be wearing a low cut dress the dress is in keeping with typical attire for a woman to wear on a date and that her breasts are adequately covered. In the Board’s view most members of the community would consider the brief focus on the woman’s chest to be not inappropriate given she is being depicted as fanning herself to keep cool and that the advertisement does treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Board determined that the advertisement did not breach Section 2.4 of the Code.

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