



ADVERTISING  
STANDARDS  
BUREAU

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## Case Report

1	Case Number	0231/14
2	Advertiser	KIA Automotive Australia
3	Product	Vehicle
4	Type of Advertisement / media	Free TV
5	Date of Determination	09/07/2014
6	DETERMINATION	Dismissed

### ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving  
FCAI Motor Vehicles 2(c) Driving practice that would breach the law  
- Other Other - miscellaneous  
- Other Social Values  
2.1 - Discrimination or Vilification Gender  
2.2 - Objectification Exploitative and degrading - women  
2.4 - Sex/sexuality/nudity S/S/N - general

### DESCRIPTION OF THE ADVERTISEMENT

Mum pulls out of her driveway with daughter in the car (Kia Sportage). She turns on the track 'Push it' by Salt n Pepa. The song starts playing and mum starts singing along. Salt n Pepa are now magically sitting in the passenger and back seat (mum's imagination) and begin singing with her. Car drives along, cyclists and a neighbour looking confused as from their perspectives mum is by herself and singing at the top of her lungs.

### THE COMPLAINT

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

*the latest advertisement showing on WIN TV shows a lady in the latest model driving with only ONE hand on the wheel, the other hand waving in the air and she is jumping around in her seat, in addition she is not concentrating on the objective which is to drive the vehicle in a responsible manner, she has a kid strapped in the back seat and a bunch of screaming loud ladies with hands in the air and jumping around in the seats as well. You are supposed to drive with both hands on the wheel and to reduce the amount of distractions so that car*

*accidents do not occur. From my training when learning to drive this type of activity is illegal. I would like to know why something so bad is allowed to be shown on TV*

*The woman driver listens to loud music and 'grooves' along. This involves her driving along in a suburban area with only one hand on the wheel, essentially dancing in her seat, while her young child is in a car seat in the rear watching her (and two 'illusion' characters - singers? - also appear as singing passengers). In one version of the ad, the woman drives past a group of cyclists.*

*I believe this ad is completely irresponsible in the way it portrays driving as a time in which to behave as if at a dance rather than in charge of a potentially dangerous machine. Young women drivers are rapidly catching up with their male counterparts in terms of risky driver behaviour leading to accidents and injuries and fatalities. This kind of ad models careless behaviour (the driver is not fully in control of her behaviour if she is busy using her hands for dance moves), especially reckless with a child in the car.*

*I am not a wowser and wish that everyone could watch such an ad and see the difference between real life and fantasy, but I do not think this is the case. I know teenagers who are just starting to drive. They should have better role models on TV. It is after watching this ad many times - it seems to be shown frequently - that I am complaining because each time I feel it is simply irresponsible of Kia.*

*The ad appears to endorse frivolous distractions while driving. It is a most dangerous example to young drivers on how they might behave while driving.*

*Regardless of where a car is depicted driving, the Board must consider whether the driving depicted would be unsafe if it were on a road or road-related area.*

*The ad does not show a responsible motorist with the lives of her passengers in her hands and is not the message relevant road safety authorities wish to convey.*

*The woman is displaying unsafe driving by holding the steering wheel with only one hand and gesticulating in time to music with the other hand.*

*I cannot believe that in this age of finally educating drivers as to their responsibilities to other road users, their passengers, and themselves, someone in Kia / SBS / FIFA thought nothing wrong in the depiction of a young woman reversing from her driveway, having just buckled-in a young child, and very quickly starting something of a song and dance party, at least one and probably all four limbs off the controls, arms flailing, imaginary song troupe having even more fun, hanging her head out of the window to leer at cyclists, all while her three year-old is hostage in the back seat, the child (and of course for evermore) taking Mum's lead.*

*The Mazda 'zoom-zoom-zoom' and related ads were bad enough, but what is Kia trying to encourage here ? Is this seriously a selling point ?*

*If not, why spend what must be bucket-loads? Haven't they heard ? Inattention, sadly even momentary inattention, especially in suburban streets, can have serious consequences - usually for people who are going about simple daily tasks, often children, even dare I say it, pets.*

*Kia Sportage, just strap-in your 3 year-old, and let the party rip.*

*The depiction of the car driving is such that a person driving in such a manner if they were taking their test would be failed as it is dangerous and totally against any road safety message that should be conveyed.*

*The actions are such that the person depicted has more focus on her non driving actions than on the road task of driving a vehicle. Regardless of what the manufacturer may allege and I have read the previous case for this ad in a different form with a male driving it passes improper messages on car driving to a target audience already susceptible to texting phoning and other actions totally wrong when driving a car.*

*It should not be encouraged through advertising and is unnecessary as it provides no product claim or information to the audience other than it is ok to drive a Kia in this manner. If this was being driven like this with a police cop alongside I have no doubt the driver would be pulled over and either warned or charged.*

*I don't appreciate when I see an Australian white female performing a "west side" American Negro gang sign at the camera whilst driving a Korean car with two Negros rapping beside her.*

*Its bad enough that we are bombarded by American culture anyway and are losing our own. This is not the Australian way and this pathetic gang lifestyle is destroying our kids. It is disrespectful to themselves and to women alone.*

*Please take it off air.*

*I object to this advertisement on the grounds that the driver is showing a complete lack of concentration whilst driving. I do not consider the driver's behaviour conducive to safe driving. I also think the advertisement flies in the face of safe driving messages directed to young drivers.*

*This is a very poor behavior example to any driver as it shows that driving with 1 hand on the wheel is good practice and safe to drive a car that way. This advert should be removed immediately from the air. No wonder people are killed on the road when Car Manufacturers and advertisers think this example of behavior is OK & demonstrates safety.*

## **THE ADVERTISER'S RESPONSE**

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

*We have considered the complaints and the advertisement in question in light of the provisions of 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 note that the nature of the complaints relate generally to the FCAI Code and specifically to the concern that the advertisement portrays unsafe driving practices.*

*We have carefully considered the AANA Code and FCAI Code, and have assessed the provisions of each 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.*

*Looking at the AANA Code, Provision 2.6 provides that advertisements "shall not depict material contrary to Prevailing Community Standards on health and safety."*

*The advertisement depicts a woman leaving her house with her daughter in the back seat, presumably to undertake grocery shopping, when she starts listening to radio. The advertisement then depicts the actual members of the band "Salt N Pepa" inside the car, singing and enjoying the song along with the driver.*

*We note that at no time in the advertisement is the driver depicted as not in control of the vehicle, nor driving in an erratic, menacing or dangerous manner. Further, at no time are the members of the band depicted as interfering with or distracting the driver in any way, nor*

*does the driver appear distracted by their presence.*

*We note that singing whilst driving is a common way in which drivers enjoy music whilst driving and that most reasonable viewers would recognise this as an acceptable and commonplace driving practice.*

*Accordingly, we submit that the advertisement does not breach Provision 2.6, or any other provision of the AANA Code.*

*Looking at the FCAI Code, we note that at no time is there any scene in the advertisement that depicts any vehicle being driven in a manner that can be described as unsafe, menacing or reckless. At all times the driver of the featured vehicle is driving very carefully, in full control of the vehicle, observing the road and obeying the road rules.*

*Further, all scenes depict vehicles traveling at a speed that is appropriate for the depicted driving environment and there is no indication that any vehicle is travelling in excess of any legal speed limit. The vehicle in fact does not exceed 40 km/h for the duration of the advertisement and this is evident by the external shots of the vehicle itself, particularly the shot in which the vehicle passes by a group of cyclists, which establish it is travelling at a safe and low speed.*

*As noted above, the driver does not appear to be in any way distracted by the presence of the members of the band nor is her ability to drive safely impeded in any way. There are no scenes in the advertisement that depict any driving practices that would be illegal on Australian roads. We note the driver intermittently takes one hand off the steering wheel at certain times however this is not illegal and the driver still maintains full control of the vehicle at all times as above. Accordingly, we submit that the advertisement is not in breach of any provision of the FCAI Code.*

*Finally, we note that this advertisement is a sequel to an advertisement from 2011 that depicted the male character (who in the present version stays home) driving a vehicle whilst listening and singing along to a song, and again, the singer is in the car with the man. We note complaints of a near identical nature were made against this advertisement in 2011 (case no. 330/11) and were dismissed by the Board. We submit that there is scope for the same considerations that the Board made in 2011 in respect of the previous advertisement to be applied to the present advertisement, as they are very similar in terms of tone and content. In conclusion, we submit that the advertisement is completely compliant with the AANA Code and the FCAI Code, and therefore, submit that these complaints should be dismissed.*

## **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 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 Kia Sportage 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 Kia Sportage 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 driver driving unsafely, specifically by singing and dancing whilst driving and only having one hand on the steering wheel.

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 it had previously dismissed a different version of the advertisement which featured the husband driving the car in case 330/11 where:

“The Board considered that the vehicle is, at all times, depicted driving in a safe and controlled manner and that the advertisement did not depict unsafe driving. The Board determined that these images did not breach clause 2(a) of the Code.”

In this instance the Board noted that the woman appears in full control of the vehicle at all times and considered that she is depicted as driving in a safe and controlled manner.

The Board considered that the advertisement did not depict unsafe driving and did not breach clause 2 (a) of the Code.

The Board then considered clause 2(c) of the FCAI Code which requires that advertisements for motor vehicles should not depict ‘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 that in case 330/11:

“...The Board noted that the man is singing while driving and does look at the passenger at various times in the advertisement. The Board considered that the driver appears to have full and appropriate control of the vehicle at all times while driving and that there was not any depiction in the advertisement of any driving practices or other actions which would breach any law and that the advertisement did not breach clause 2(c) of the FCAI Code.”

In the current advertisement the Board noted that the woman is singing and performing dance-style movements with her body. The Board noted that in some scenes the woman has only one hand on the steering wheel. The Board noted the Australian Road Rules (February 2012) provide that “A driver must not drive a vehicle unless the driver has proper control of the vehicle”. The Board noted that the driver in the advertisement appears to be in full

control of the vehicle at all times and considered that although the woman is singing and performing some dance movements with her body there is no suggestion that she is not aware of her surroundings and in the Board's view her driving appears safe and controlled. The Board noted the complainant's concern about the type of actors used in the advertisement and noted that the nationality and ethnicity of actors is not an issue that is relevant for consideration under the FCAI Code or, in this particular instance, under the Code of Ethics. Finding that the advertisement did not breach the FCAI Code, the Board dismissed the complaints.