



## Case Report

1	Case Number	0231/16
2	Advertiser	Mercedes-Benz Aust/Pacific P/L
3	Product	Vehicle
4	Type of Advertisement / media	Internet
5	Date of Determination	08/06/2016
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

We see the Mercedes-Benz C-Class Coupe driving through picturesque mountains and then the car arrives at the ferry port. A couple emerge and the man states “If we take the ferry we could save an hour”. The female responds with “challenge accepted”. We see the couple get back into the C-Class Coupe and drive through the Alps.

### THE COMPLAINT

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

*Speeding cars kill.*

*Decreasing an expected journey by an hour would require considerable speeding. The suggestion to race the ferry, coupled with the change in music, and camera angles, indicates to audience members the car is now speeding.*

*Associating speed with enjoyable thrills, romance, and an aspirational life of good looking people, in a memorable location, living la vida loca, might well sell this vehicle, but also encourages speeding.*

*This is a high quality production and clearly expensive advertisement with a big budget. Along with selling a car, it sells the idea that speeding is fun, persuasively.*

*To clarify, I am not contending the car in the advertisement is speeding. Rather, I contend through the treatment of different elements of the advertisement the audience is encouraged*

*to assume the car is speeding. In addition, the audience is encouraged to associate speeding with thrilling entertainment.*

*Speeding is illegal and dangerous, hence my concern regarding this advertisement. Thank you. Please pass on this clarification to those investigating this matter. I am happy to provide any further assistance required, and look forward to hearing from you again after your investigation.*

## **THE ADVERTISER'S RESPONSE**

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

*Mercedes-Benz and the Daimler group are renowned for having some of the safest vehicles on the market, having invented many of the revolutionary safety features that we see across most brands today, for example, the airbag and anti-lock braking, among many others. Vehicle and road safety is the driving force behind our stated goal of accident-free driving and we ensure that our advertisements are consistent with this aspiration and the FCAI Code.*

*The advertisement does not portray any images of unsafe driving, driving in excess of a speed limit or other practices which would contravene road safety regulations if they were to take place on a road or road-related area.*

*The complaint is based on erroneous premise that in order to get to a destination in a comparable or better time than another mode of transport it is necessary to speed. There are many other time saving practices that can be used in order to shorten a trip in this instance including taking alternative routes and shortcuts, avoiding heavy traffic situations and routes, avoiding routes with traffic lights, avoiding the waiting periods associated with buying ferry tickets, embarking and disembarking the ferry.*

*It is therefore not necessary to exceed speed limits to shorten a trip, the vehicle is not pictured driving in excess of speed limits and accordingly the advertisement does not breach the FCAI Code.*

## **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) or the AANA Code of Ethics.

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 available in Australia or in a substantial

section of Australia for payment or valuable consideration. The Board determined that the material draws the attention of the public or a segment of it to a product being a Mercedes-Benz C-Class Coupe in a manner calculated to promote that product. The Board considered that in line with previous decisions around the scope of the FCAI Code, the marketing communication is an advertisement as defined by the FCAI Code.

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 Mercedes-Benz C-Class Coupe 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 a vehicle speeding and is encouraging speeding.

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 a Mercedes-Benz C-Class Coupe being driven through the mountains. The Board considered that whilst there may be a suggestion of speed, inferred by the statements 'save an hour' and 'challenge accepted' and the music speeding up, the vehicle is shown being driven in a controlled manner throughout the advertisement and not in a manner which is unsafe.

The Board noted it had dismissed a complaint about a similar advertisement in case 0357/11 where:

"There is no evidence in the advertisement which indicates that the Mercedes-Benz C-Class Coupe' is speeding or breaching any road rule, and the complainant's comment that the scenes depicted the vehicle "being driven at what seemed to be high speeds" would likely be explained by the quick editing used by the producers of the advertisement, coupled with the up-beat background music. By the complainants own admission, the C-Class Coupe' "seems to be" driven at high speed. Nothing in the advertisement, other than the quick editing techniques used, supports that the C-Class Coupe' was travelling at high speed."

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 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 advertiser’s response that there are many other time saving practices that can be used in order to shorten a trip, including taking alternative routes and shortcuts, and avoiding the waiting periods associated with buying ferry tickets, embarking and disembarking the ferry.

The Board noted that there is no indication of the speed the car is driving at in the advertisement or of the speed limits of the roads the car 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 car is being driven at, therefore the car is 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 the Board dismissed the complaint.