



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0240-21
2. Advertiser :	KIA Automotive Australia
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - On Demand
5. Date of Determination	8-Sep-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(a) Unsafe driving
FCAI Motor Vehicle Advertising Code\2(b) Breaking the speed limit
FCAI Motor Vehicle Advertising Code\2(c) Driving practices

DESCRIPTION OF ADVERTISEMENT

This TV on demand advertisement features a number of people making car noises as the advertised vehicle moves through a computer-generated testing environment.

THE COMPLAINT

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

The Preamble states: Advertisers should ensure that advertisements do not depict, encourage or condone dangerous, illegal, aggressive or reckless driving. Moreover, advertisers need to be mindful that excessive speed is a major cause of death and injury in road crashes and accordingly should avoid explicitly or implicitly drawing attention to the acceleration or speed capabilities of a vehicle.

FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self-evident exaggeration in creative ways in advertising for motor vehicles. However, such devices should not be used in any way to contradict, circumvent or undermine the provisions of the Code.



The Code states

2. GENERAL PROVISIONS

Advertisers should ensure that advertisements for motor vehicles do not portray any of the following:

(a) Unsafe driving, including reckless and 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.

[Examples: Vehicles travelling at excessive speed; sudden, extreme and unnecessary changes in direction and speed of a motor vehicle; deliberately and unnecessarily setting motor vehicles on a collision course; or the apparent and deliberate loss of control of a moving motor vehicle.]

(b) People driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast.

(c) 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.

This ad is clearly about promoting speed. Kia and the advertising agency should be ashamed of themselves.

What ever loop-holes they are trying to create to get around the Code, they cannot escape that the vehicle does sudden turns and zig-zags, which are traffic offences in ALL jurisdictions.

It should be banned and taken off air immediately.

THE ADVERTISER'S RESPONSE

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

We refer to your letters of 6 August 2021 and 13 August 2021, concerning the complaints received by Ad Standards in respect of a Kia Australia Pty Ltd (Kia) 15 second and 30 second television advertisements for the Kia Cerato (Advertisement).

The complainants allege that the Advertisement raises issues under clauses 2(a), 2(b) and/or 2(c) of the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (Code).

Kia takes compliance with the Code very seriously.

For the reasons set out below, Kia disagrees that the Advertisement infringes clause 2 of the Code or any other clause of the Code.



Background to the Advertisement

The Advertisement was created to promote the new Kia Cerato.

The Advertisement is intended to showcase the new design, logo and features of the Kia Cerato, including the reinvigorated styling, LED illumination, alloy wheels, GT body kit and intelligent technology. The Advertisement is an adaptation of an earlier campaign for an earlier model of the Kia Cerato, which aired for two years prior to this latest revision.

The Advertisement is intended to target a broad range of consumers across various demographics.

The Advertisement has been broadcast in all States and Territories of Australia since January 2021. The Advertisement has been broadcast online on Kia's YouTube and social channels since January 2021.

The Advertisement

The 30 second version of the Advertisement opens with a close up shot depicting a woman with a focused but playful look on her face. A similar shot depicting a woman followed by a man ensues.

The Advertisement then cuts to a close up shot of the Kia Cerato displaying the new design, logo and features of the front of the model. The Kia Cerato is stationary on a wide, stark landscape that is clearly intended to be in a surreal environment. There are no pedestrians or cars visible. The number plate "Cerato GT" indicates the new Kia model.

An eye level, close up shot displays the wheels of the Kia Cerato, followed by the vehicle being shown driving off to the left of the screen. The interior dashboard of the vehicle is shown to further illustrate the aesthetics of the vehicle and to showcase the new design and logo.

The Advertisement then cuts to a close up shot of an individual replicating the sound of the Kia Cerato's engine. The audible sound effects generated by the individuals using their mouths are intended to be playful and to replicate the various noises of a car.

A panning shot of the vehicle ensues and is cut intermittently by close up shots of individuals producing the engine sound effects and of the interior aesthetic of the vehicle. The Kia Cerato is shown from behind and in front driving, followed by a close up shot of a woman with her hair blown across her face.

The screen turns white and the tagline "New Cerato GT" appears, followed by the new Kia logo situated on top of the tagline "Movement that inspires".

The 15 second version of the edit is a shortened version of the 30 second edit.



The Kia Cerato and the environment in the Advertisement were created using Computer Generated Insert (CGI) postproduction. Accordingly, no special permissions or permits were required to undertake the driving sequences shown in the Advertisement. The intention is to show the vehicle in a surreal, artistic environment. Kia confirms that all times during the Advertisement the Kia Cerato is shown to be travelling within the legal speed limits in the jurisdictions in which the Advertisement was broadcast.

At 00.04 of the 15 second advertisement and 00.06 of the 30 second advertisement the dashboard of the Kia Cerato is visible and the speed shown does not exceed 60 km/h, being well within what is considered an acceptable speed for safe driving.

The complaints

Kia takes compliance with the Code very seriously. Kia considers that the Advertisement does not depict conduct which is in contravention of the Code and submits that the complaints should be dismissed.

The Advertisement does not depict unsafe driving

The Advertisement does not depict unsafe driving in contravention of clause 2(a) of the Code.

Clause 2(a) of the Code provides that advertisers should ensure that advertisements of motor vehicles do not portray unsafe driving, including reckless or menacing driving. The driving, whilst dynamic and skilful, is not reckless or menacing, nor does it show the Kia Cerato being driven in a manner that resembles the vehicle being driven at “enormous speed” as argued by one of the complainants. Although the vehicle is shown turning in the Advertisement, it appears at all times to be in complete control and to be driven in a controlled, safe manner.

The intention of the Advertisement is not to promote the speed, breaking or acceleration capacity of the Kia Cerato, but rather to emphasise the improved design, logo and features of the vehicle (as can be seen from the way that the Advertisement focuses on these aspects during the Advertisement). The sound effects generated by the talent (including when the vehicle is idle) are aimed at being playful and dramatic. It could not reasonably be argued that the sound effects made by the talents’ mouths depict driving which is unsafe.

Additionally, the Advertisement was produced in a CGI environment utilising a CGI-generated vehicle, which gives the Advertisement artistic and surreal overtones.

The Advertisement does not depict driving in excess speed limits

The Advertisement does not depict people driving at speed in excess of speed limits in contravention of clause 2(b) of the Code.



As set out above, at all times during the Advertisement the Kia Cerato is shown to be travelling within the legal speed limits in the relevant jurisdictions in which the Advertisement was broadcast, and at no time during the Advertisement is there any indication that the Kia Cerato is travelling in excess of the legal speed limits in the relevant jurisdictions in which the Advertisement was broadcast.

While the audible sound effects generated by the talent and the camera techniques used may give an impression of speed, the vehicle is being driven within the legal speed limit. At 00.04 of the 15 second advertisement and 00.06 of the 30 second advertisement the dashboard of the Kia Cerato is visible and the speed is shown as not exceeding 60 km/h, being well within what is considered an acceptable speed for safe driving.

The talent also generates sound effects of the vehicle when the vehicle is in a stationary position which does not support the argument of unsafe or erratic driving. It is rather an example of advertisers using humour and self-evident exaggeration in the advertisement which the Code accepts as a creative way to advertise motor vehicles. In the Ad Standards Community Panel's determination on 23 June 2021 (case number 0175-21), the Panel stated that:

... while there may be an impression of speed due to the sound of the engines and the camera techniques used, the vehicles do not appear to be driving at excessive speeds. In reaching a decision that the Advertisement did not contravene clause 2(b) of the Code, the Panel determined that:

... there is no indication that any vehicle 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 reasoning applied in that determination clearly applies here.

The Advertisement does not depict driving that would breach road safety or traffic regulations

The Advertisement does not depict driving which would, if it was to take place on a road or road-related area, breach any road safety or traffic regulation in contravention of clause 2(c) of the Code.

As set out above, the Advertisement does not show driving in excess of speed limits. In relation to the complainants' specific concerns that the Advertisement mimics vehicles on a high speed race-track and is in breach of the Code, there is no suggestion in the Advertisement that the Kia Cerato is racing or mimicking vehicles on a race track.

There are no pedestrians or other cars in the Advertisement and the Kia Cerato is at all times driven in a safe and controlled manner.

Additionally, the Advertisement does not and could not be considered by any reasonable person to encourage or condone unsafe copycat behaviour in breach of the Code.



AANA Code of Ethics not relevant for consideration

Kia notes that, under the Motor Vehicle Advertising Code Practice Note, advertisements for motor vehicles which raise issues or complaints concerning safety are to be determined according to the Code as opposed to the AANA Code of Ethics. Accordingly, Kia has not dealt with the AANA Code of Ethics in its response.

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).

The Panel noted the complainant's concern that the advertisement depicts vehicles speeding and depicts unsafe driving by showing a vehicle making sudden turns and zig zags.

The Panel viewed the advertisement and noted the advertiser's response.

Is this an advertisement for a motor vehicle?

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 Cerato vehicle depicted as a Motor Vehicles 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.

Clause 2(a): 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 that the sounds that the people in the advertisement are making, the engine sounds and the movement of the camera create an impression of speed.

The Panel noted the advertiser's response that the vehicle is driven within the speed limit and that the advertisement depicts the dashboard of the Kia Cerato at certain points and the speed is shown as not exceeding 60 km/h.

The Panel considered that while there may be an impression of speed due to the exaggerated sounds that the people are making, the engine sounds and the camera techniques used, the vehicle does not appear to be driving at excessive speeds. The



Panel noted that braking sounds are not accompanied by black brake marks or by tyre smoke, also suggesting that the vehicle is not travelling at excessive speeds.

The Panel considered that the vehicle appears to be in the control of the driver at all times. The Panel noted the direction of the tyres in the advertisement and considered that changes in direction appear greatly exaggerated due to the camera techniques used. The Panel noted that the vehicle is alone in the advertisement on a computer-generated surface and therefore no directional changes which might cause risk to other drivers are apparent.

Overall, the Panel considered that the driving behaviour in the advertisement did not portray unsafe driving which would be a breach of the law

Clause 2(a) conclusion

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

Clause 2(b) Advertisers should ensure 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.

Consistent with the discussion under Clause 2(a), the Panel considered that there is no indication the vehicle is driving at speeds in excess of speed limits in Australia

Clause 2 (b) conclusion

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

Clause 2(c) - 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. (examples: illegal use of hand-held mobile phones or not wearing seat belts in a moving motor vehicle)].

Consistent with the discussion under Clause 2(a), the Panel considered that the the advertisement did not depict driving practices in breach of the law.

Clause 2 (b) conclusion

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

Conclusion



Finding that the advertisement did not breach any other section of the FCAI Code the Panel dismissed the complaint.