



Ad Standards Community Panel
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Case Report

1. Case Number :	0254-20
2. Advertiser :	Porsche Cars Australia
3. Product :	Automotive
4. Type of Advertisement/Media :	Print
5. Date of Determination	26-Aug-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(a) Unsafe driving

DESCRIPTION OF ADVERTISEMENT

There are five versions of this print advertisement which feature an image of a red car driving around a corner on a mountain road. Underneath the image is the text, "More of what you love. The new Macan GTS."

The first and second versions of the advertisement feature the text:
"When perfection isn't good enough, demand more. The new Macan GTS delivers with a high-performance 2.9 litre twin-turbo V6 engine, unleashing a menacing 280KW/370 horsepower. See it today at your Official Porsche Centre".

The third and fourth and fifth versions of the advertisement feature the text: "When perfection isn't good enough, demand more. The new Macan GTS delivers with a high-performance 2.9 litre twin-turbo V6 engine, unleashing a menacing 280KW/370 horsepower. Lower, darker and with more sporting prowess than all that come before before it, the new Macan GTS resets the benchmark for performance SUVs. Are you up to it? See it today at your Official Porsche Centre".

Each version of the advertisement includes details of local Porsche dealers and prices.

THE COMPLAINT



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

The advertisement states:

"When perfection isn't good enough, demand more. The new Macan GTS delivers with a high-performance 2.9 litre twin-turbo V6 engine, unleashing a menacing 280kW/380 horsepower."

I strongly object to the use of the word 'menacing' in this context. We are increasingly aware in society that language matters, and as the family member of a young man killed in a motor vehicle accident, I am particularly sensitive to it.

'Menace' has no place on our roads, and suggesting that the power of the car is 'menacing' is self-evidently irresponsible and inappropriate. The FCAI code of practice for motor vehicle advertising states that advertisements should not portray "Unsafe driving, including reckless and menacing driving..." To claim that this advertisement promotes menacing horsepower, but not menacing driving, would be to split hairs at a level which would be socially irresponsible.

THE ADVERTISER'S RESPONSE

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

Response to Complaint under FCAI Code

Clause two (2) of the FCAI Code of Practice for Motor Vehicle Advertising (FCAI Code) requires that advertisers ensure that advertisements for motor vehicles not portray unsafe driving, including speeding or other practices which would contravene road safety regulations, if they were to take place on a road or road-related area.

In the advertisement, the motor vehicle is driving in line with road safety rules and regulations. The scene depicted by the image does not imply any unsafe driving. The text accompanying the image of the vehicle focuses on informing consumers about the vehicle's characteristics. Taken in context, the words used factually reference and inform consumers about the cylinder capacity and kilowatt power of the engine – both of which are expressly allowed under clause 2(a) of the Code's Explanatory Notes. The advertisement did not portray unsafe driving in contravention of the FCAI Code, or any road safety rules and regulations.

We have not addressed clauses 3 and 4 of the FCAI Code as the advertisement does not relate to the use of motorsport, nor does it depict the vehicle being used in an off-road context.

Response to Complaint under AANA Code

We note that the advertisement does not depict an image that is contrary to public health and safety, does not promote any unsafe behaviour whilst driving, nor is it contrary to any road rules and regulations. Furthermore the image accompanying the text shows a controlled vehicle on a clear road driving in line with road safety rules



and regulations. Consequently, we are also of the view that there is no contravention of the AANA Code.

In summary, the advertisement does not portray driving that could be characterised as unsafe or in contravention of the FCAI Code, AANA Code or any road safety rules and regulations. In all the circumstances, we respectfully request that the complaint be dismissed.

Notwithstanding our request, we take the opinion of the complainant seriously and will voluntarily amend the text accompanying the image in future advertisements of the motor vehicle by refraining from using the word that was objected to.

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 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 Porsche Macan is a Motor Vehicle 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.

The Panel noted the complainant's concern that the use of the word "menacing" when describing the vehicle is irresponsible and inappropriate.

The Panel 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 Panel noted that the printed statement in the advertisement is "The new Macan GTS delivers with a high-performance 2.9 litre twin-turbo V6 engine, unleashing a menacing 280KW/370 horsepower."

The Panel considered that this phrase refers to the stated horsepower of the vehicle advertised and is not making a reference to the behaviour of the driver in the advertisement or suggesting that other drivers should drive in an unsafe or dangerous manner.



The Panel considered that the use of the word “menacing” is hyperbole and is intended to refer to the output and performance of the engine (similar to suggesting that it is awesome or cool), rather than intended to be taken literally (i.e. that that engine or the vehicle itself is dangerous or threatening).

The Panel noted the complainant’s comment that to claim that the advertisement promotes menacing horsepower but not menacing driving is splitting hairs at a socially irresponsible level.

The Panel considered that the two descriptions are very different and considered that many members of the community drive high performance vehicles featuring high-powered engines responsibly, and that this does not follow that such drivers are unsafe or drive in a dangerous manner because of the performance or power of such vehicles.

The Panel considered that most members of the community would not find this advertisement to portray reckless, menacing or unsafe driving and determined that the advertisement did not breach clause 2(a) of the FCAI Code.

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