



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0259-19
2. Advertiser :	Suzuki Australia Pty Limited
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	21-Aug-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

Advertisement for Suzuki with the slogan 'for fun's sake'. The ad features a car careering through water and mud, and circling a suburban roundabout. The ad begins by talking about driverless vehicles.

THE COMPLAINT

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

Dangerous driving depicted. In one of the shots a woman is behind the wheel of a stationary red car. She looks through the open passenger window at her friend on the street and says "no seriously, get in". As he reaches to open the door she drives the car away from him and stops straight after. The implication is that she's been doing this multiple times.

It's not hard to see a few scenarios in which this kind of game could end in injury or death. I have no problem with the other footage in the ad but they've really got to take this bit out.



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 letter dated 12 August 2019 regarding a complaint received by Ad Standards in relation to a television advertisement by Suzuki Australia Pty Limited (Suzuki).

We have considered the complaint and, for the reasons outlined below, submit that the complaint should be dismissed.

For your reference, we enclose a digital copy of the 30 second version of the advertisement. A copy of the script is also attached.

The Advertisement promotes the Suzuki brand and range of vehicles. The Advertisement opens with a futuristic scene showing a driverless car and a voiceover stating "It is predicted that by 2035 all cars will be driverless, but until then....". The scenery then transforms to the present day and shows a Suzuki vehicle driving in an off road setting by an adult male. The voiceover shifts from futuristic to excited and states "party time". Different drivers are shown enjoying the features of different Suzuki vehicles. The Advertisement includes a scene in which a man attempts to get in a red Suzuki vehicle just as the vehicle is taking off. The tagline for the Advertisement is "For Fun Sake".

The Advertisement is a modified version of an earlier advertisement that was the subject of an upheld complaint.

The CAD rating is G.

Response to Ad Standards' inquiries

Please see below our responses to your specific questions, followed by our submissions in response to the issues raised in the complaints:

*The Advertisement was filmed under controlled, closed road conditions. All vehicles were driven safely and in a controlled manner at all times. ***

All vehicles were driven within legal speed limits at all times.

No special permissions or permits were required to undertake filming of any driving sequences depicted in the Advertisement.

The Advertisement has been broadcast on free to air television across all metropolitan markets across Australia excluding Brisbane, as well as all regional markets (excluding Queensland).



In addition to being broadcast on television, the Advertisement is running as a pre-roll video on Catch Up TV/YouTube.

The Advertisement does not depict any motor sport, simulated motor sport or vehicle testing or proving.

In respect of the Suzuki Jimny 4x4 vehicle (which is the only vehicle shown in an off-road setting):

the vehicle conforms to the requirements of the definition of an off road vehicle as provided in the Australian Design Rules (MC category). In addition to having all-wheel drive, the vehicle has hill descent control, a feature only required for off road driving.

the maximum number of seating positions is five.

the vehicle has four-wheel drive capability.

Submissions in response to complaints

The complaint alleges that the Advertisement:

depicts a woman repeatedly driving away from a man as he approaches to get into the car before stopping the car; and

suggests "it's not hard to see a few scenarios in which this kind of game could end in injury or death".

Ad Standards has identified clause 2 of the FCAI Motor Vehicles Advertising Code (the FCAI Code) as potentially relevant.

In particular, Clause 2(a) of the FCAI Code provides that Advertisers should ensure that advertisements for motor vehicles do not portray "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 whether the driving is depicted in the advertisement."

The FCAI Code includes, as examples of what would likely contravene clause 2(a), "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."

Submissions concerning Clause 2(a) - unsafe driving



Suzuki submits that the Advertisement does not portray unsafe, reckless or menacing driving that would breach any applicable laws or regulations dealing with road safety or traffic regulation. In particular, we note:

all vehicles were driven within the legal speed limit at all times during filming and in accordance with applicable road rules.

specifically, in the part of the Advertisement which is the subject of the complaint, the red vehicle is driven a short distance and at low speed. The driver is in full control of vehicle.

the man who moves towards the red car following the driver's instruction to "get in" is at no point endangered in any way. His body does not come into physical contact with the car at any time.

For the reasons outlined above, we submit that the Advertisement does not portray any material in contravention of clause 2(a) of the FCAI Code, as it does not depict unsafe driving.

Further, we submit that the Advertisement does not contravene any other provision of the FCAI Code for the following reasons:

(a) there is no indication of the speed that any of the vehicles are being driven at or of the speed limits of the roads that the vehicles are driving on (eg there is no footage of a speedometer reading or reference to any speed limit being exceeded). Accordingly, the Advertisement does not depict excessive speeding in contravention of clause 2(b) of the FCAI Code.

(b) all drivers are shown wearing a seatbelt and in control of their vehicle. There is no footage of any driver using a mobile phone or other handheld device. Accordingly, we submit that the Advertisement does not portray any driving practices or other actions that would breach any applicable laws or regulations in contravention of clause 2(c) of the FCAI Code.

(c) all drivers are alert at all times. There is no suggestion that any of them are fatigued or under the influence of drugs or alcohol in contravention of clause 2(d) of the FCAI Code.

Submissions in relation to previous review of the Advertisement by Ad Standards

An earlier version of this Advertisement was previously reviewed by the Community Panel (Case Number 0160/19). This previous version of the Advertisement included the scene which is the subject of the current complaint.

Whilst in that case the complaint was upheld and the Advertisement was modified as a result, the Community Panel did not consider the relevant scene involving the red Suzuki as a contravention of the FCAI Code or any other regulation.

Code of Ethics



For completeness, we further submit that the Advertisement fully complies with Section 2 of the AANA Code of Ethics. Below is a short summary of our submissions regarding the provisions of Section 2 of the Code.

Section reference

2.1 Advertising or Marketing shall not portray people or depict material in a way which discriminates or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

The Advertisement does not depict any material that is problematic for the purposes of section 2.1.

*2.2 Advertising or Marketing Communications shall not employ sexual appeal:
(a) where images of Minors, or people who appear to be Minors, are used; or
(b) in a manner which is exploitative and degrading of any individual or group of people.*

The Advertisement does not employ sexual appeal.

2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

The Advertisement does not present or portray violence.

2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Advertisement does not make any reference to sex or nudity.

2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

The Advertisement does not include any inappropriate, strong or obscene language.

2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

Please refer to our detailed submissions above regarding compliance with the FCAI Code.

2.7 Advertising or Marketing Communications shall be clearly distinguishable as such to the relevant audience.



Any reasonable viewer will have no doubt as to the advertising nature of this content.

Conclusion

In view of the above, we consider the complaint should be dismissed.

Thank you for taking the time to consider our response. We look forward to receiving your determination in this matter.

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).

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 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 Suzuki models depicted in the advertisement were 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 that there are two versions of this television advertisement.

A 30 second version of the advertisement shows a small car driving along a suburban street where all the houses look very similar; a yellow vehicle driving through a muddy terrain going over bumps and then driving on a dirt terrain; a woman circling a roundabout; several aerial shots of various vehicles travelling along a sealed road; a man attempting to open a red vehicle's door as it moves forward; the yellow vehicle again driving through a muddy terrain going over bumps, then reversing through a mud puddle; a silver vehicle travelling along a dirt road; a man walking away from a parked blue vehicle; and a yellow vehicle driving.

A 15 second version of the advertisement shows a small car driving along a suburban street where all the houses look very similar; a yellow vehicle driving through a muddy terrain going over bumps; a man attempting to open a red vehicle's door as it moves



forward; a woman circling a roundabout; a yellow vehicle driving; and a silver vehicle travelling along a dirt road.

The Panel noted that both versions of the advertisement end with the tagline “For fun’s sake”.

The Panel noted that it had previously considered an earlier version of this advertisement which was upheld. The Panel noted that the earlier version had not received complaints about the scene identified in this case, and noted that this modified version of the advertisement had removed the scenes that were upheld in the previous case.

The Panel analysed specific sections of the FCAI Code and their application to the advertisement.

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 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.’

The Panel 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; deliberately and unnecessarily setting motor vehicles on a collision course; or the apparent and deliberate loss of control of a moving motor vehicle.’

The Panel noted the complainant’s concern that the advertisement depicts dangerous driving by showing a man attempting to get into a vehicle as it moves slightly forward, and that this scenario could result in injury or death.

The Panel noted that this scenario of telling someone to get into the car and then driving slightly forward as they reach for the door handle, and repeating this process, is one that many members of the community would be familiar with.

The Panel noted that the vehicle appears to have stopped to pick the man up, and considered that the overall impression of the scene is one of friends teasing each other. The Panel noted that the man in the advertisement does not appear to be worried, scared or concerned for his safety and the driver was not aggressive or threatening in any way.

The Panel noted the advertiser’s response that the man does not come into physical contact with the vehicle at any time, and that the vehicle is driven a short distance and at low speed with the driver in full control of the vehicle.



The Panel noted the complainant's comment that they could see a few scenarios in which this kind of game could end in injury or death. The Panel considered its role is to consider the content depicted in the advertisement, not hypothetical scenarios and that implied or inferred unsafe driving is not a breach of the Code.

The Panel considered that most members of the community would consider that this scenes not a depiction which encourages or condones unsafe driving and did not breach section 2(a) of the FCAI Code.

Finding that the advertisement did not breach the Code on other grounds the Panel dismissed the complaint.