



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
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Case Report

1	Case Number	0261/18
2	Advertiser	Nissan Motor Co (Aust) Pty Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	06/06/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens on a woman rockclimbing with two women in the background sitting at a café table on the rock face. It then shows her cycling through forest while two women are on spin bikes in the air above her. It then shows her driving while people do yoga upside down on beams above the vehicle. The woman presses the cruise control button on the vehicle and the yoga people disappear. The advertisement then shows various scenes of the vehicle exterior, and the dashboard screen showing cruise control features.

THE COMPLAINT

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

There is a phrase at the 16 second mark "worry less about what others around you are doing", insinuating that drivers would have better quality of life if they simply rely on the cars technology and pay little to no attention to other road users. This promotes extremely unsafe road practice and undermines the importance of paying attention to



the road around a driver at all times.

THE ADVERTISER'S RESPONSE

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

I refer to your letter dated 22 May 2018.

Your letter details a complaint with reference number 0261/18 (the complaint) in relation to a 30-second advertisement by Nissan Motor Co. (Australia) Pty Ltd (Nissan) featuring a Nissan Pathfinder (the advertisement).

1. Description of the advertisement

The advertisement shows a mum and her three children on an adventure, partaking in a number of activities like rock climbing and bike riding. While on this adventure we see two female characters who are having conversations trying to 'one-up' each other on how good they are at being "mums". When seeing these two characters it soon becomes clear by the obscure places they appear (like floating in the trees riding spin bikes) that they are in fact a part of our lead Mum's imagination and represent her inner monolog. We see our lead Mum trying to shake off the comments from these other mums but it is not until she engages the car's intelligent cruise control that they disappear and she finally has her thoughts to herself. The tense expression on her face is replaced with a relaxed smile. At the same point that the other mums disappear we see the car slow down and speed up to match the traffic movement in front of it indicating the function of the intelligent cruise control.

2. The complaint

The complaint alleges that:

'There is a phrase at the 16-second mark "worry less about what others around you are doing", insinuating that drivers would have better quality of life if they simply rely on the car's technology and pay little to no attention to other road users. This promotes extremely unsafe road practice and undermines the importance of paying attention to the road around a driver at all times.'

3. Nissan's response to the complaint

Nissan takes great care when developing television commercials to ensure that they comply with all applicable advertising standards and codes of practice including the Australian Association of National Advertisers Code of Ethics (AANA Code) and the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (FCAI Code). To this end, care is taken to ensure that the



advertisements do not encourage any form of unsafe, illegal or reckless activity, or depict scenes or behavior contrary to prevailing community standards in relation to health and safety. Nissan also takes great care to ensure that the advertisements it produces do not represent any vehicle being driven in a manner that undermines the intent of the codes. Nissan strongly believes that the advertisement complies with the AANA Code and FCAI Code.

Compliance with the AANA Code

Your letter requires Nissan to address the advertisement's compliance with section 2 of the AANA Code. Nissan considers that the only potentially relevant section is section 2.6, which provides:

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

Nissan submits that the advertisement does not depict any material contrary to prevailing community standards on health or safety.

Prior to Intelligent Cruise Control being activated, the advertisement uses imagery and sound to demonstrate how the driver is beset with worries about how she matches up to others in her day to day life. However, once cruise control is activated those sounds and images cease and the driver's expression changes from a look of tension to a relaxed smile, demonstrating the way in which the car's safety feature gives her peace of mind, enabling her to worry less about what others are doing. Whilst the driver continues to drive in a safe and attentive manner, the use of Intelligent Cruise Control makes the experience of driving less stressful.

In no way does the advertisement imply that drivers should rely on the Pathfinder's Intelligent Cruise Control technology to the exclusion of other safe driving practices. Rather this safety feature is depicted as providing the driver with an additional level of security and comfort that the technology will assist her to maintain a safe distance from the vehicles around her, thereby keeping her family safe.

This message is reinforced by the disclaimer which appears prominently on screen whilst the safety feature is being demonstrated:

"Intelligent Cruise Control is a driver's aid only and should not be used as a substitute for safe driving practices; always monitor your surroundings when driving."

Rather than depicting material contrary to prevailing community standards on health and safety, Nissan submits that the advertisement in fact conveys a positive safety message by demonstrating the benefits of Intelligent Cruise Control technology and encouraging consumers to invest in vehicles with this potentially life-saving feature. When this technology is activated, it assists drivers to stay within the speed limit and to maintain a safe distance to the vehicle ahead, with the distance to the next vehicle automatically increasing as the vehicle's speed increases, thereby reducing the



likelihood and severity of any accident.

Nissan is strongly committed to vehicle safety and has publicly declared its goal to achieve virtually zero fatalities and serious injuries in accidents involving its vehicles. Nissan views the safety technology featured in this advertisement as one of its key platforms in the pursuit of its ultimate vision of achieving virtually zero fatalities.

The FCAI Code

Your letter also requires Nissan to address the advertisement's compliance with section 2 of the FCAI Code, which provides: 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.

When preparing the advertisement, Nissan carefully considered the requirements of the FCAI Code and maintains that the advertisement meets and fully discharges Nissan's obligations under section 2.

Pursuant to the requirements of the FCAI code, the advertisement depicts the vehicle travelling at a safe speed of 60KM/h or less at all times, while the driver is wearing a seatbelt, has two hands on the steering wheel and maintains a safe braking distance between her vehicle and those ahead. At no time does she take her eyes off the road or do anything to indicate that she is driving in a reckless, menacing or unsafe manner or in a manner which would contravene any applicable road safety or traffic regulation.

4. Conclusion

For the reasons outlined above, Nissan does not believe that the advertisement breaches the AANA Code or FCAI code and accordingly requests that the complaint be dismissed.

In any event, we note that prior to receiving this complaint Nissan had already made the decision to wind down this Pathfinder advertising campaign and the last television placement is scheduled for 9 June 2018. Nissan does not currently intend to air this advertisement on Australian television or promoted online video placement after this date.

We look forward to receiving the results of the Board's determination.



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 Land Rover Discovery was 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 advertisement implies that drivers should rely on the vehicle's technology and not pay attention to other road users which is dangerous.

The Panel then 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 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 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 Panel noted the complainant's concern that the advertisement insinuates that drivers would have better quality of life if they simply rely on the car's technology and pay little to no attention to other road users.

The Panel noted that this television advertisement is highlighting the Nissan Pathfinder's Intelligent Cruise Control technology.

The Panel considered the advertiser's response that the advertisement does not imply that drivers should rely on the vehicles cruise control technology to the exclusion of other safe driving practices, but rather that the advertisement depicts this technology as providing additional security and comfort while driving.

The Panel noted that the advertisement states "worry less about what others around you are doing" and considered that while an interpretation of that could be that the advertiser is advising drivers to not pay attention to other road users, a reasonable viewer would interpret that as a reference to worrying less about daily stresses, as evidenced by the woman's internal monologue which is the focus of the advertisement.

The Panel considered that overall the advertisement does not portray any driving which is unsafe, or that would breach any Commonwealth law or the law of any State or Territory.

The Panel 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.

INDEPENDENT REVIEWER'S RECOMMENDATION

THE DETERMINATION ON REVIEW



ADVERTISER'S RESPONSE TO IR DETERMINATION