



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0280/13</b>
<b>2</b>	<b>Advertiser</b>	<b>Ford Motor Co of Aust Ltd</b>
<b>3</b>	<b>Product</b>	<b>Vehicle</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>14/08/2013</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

FCAI Motor Vehicles 2(c) Driving practice that would breach the law

### DESCRIPTION OF THE ADVERTISEMENT

A female driver is explaining to her male passenger about a car which had braked suddenly in front of her. The man interrupts her to ask if everything went in to slow motion and she replies that her car used its city active braking system to stop for her.

### THE COMPLAINT

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

*This ad flies in the face of road rules governing inattentive driving, by stating that their system will stop the car for the driver.*

*[http://www.dpti.sa.gov.au/roadsafety/Safer\\_behaviours/inattention](http://www.dpti.sa.gov.au/roadsafety/Safer_behaviours/inattention)*

*This address states that*

*difficulty in maintaining appropriate following distances from vehicles in front (e.g. tailgating)*

*less awareness of safe gaps in traffic*

*Are deemed an offence under law, hence the advert is allowing this infraction to take place by the drivers of the vehicle.*

*Also include as an offence is*

*impairment of the driver's judgement.*

### THE ADVERTISER'S RESPONSE

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

*First and foremost, I would like to emphasise that Ford Australia takes seriously its commitment to the AANA Code of Ethics (AANA Code) and the FCAI Voluntary Code of Practice for Motor Vehicle Advertising (FCAI Code) and we are aware of the potential impact that our advertising may have on members of the public.*

*All of our advertising, including the Ford Focus TVC, is carefully reviewed in that context and is approved by legal counsel. In this instance, we firmly believe that the scenario depicted in the Ford Focus TVC does not breach the AANA Code or the FCAI Code.*

*The complaint referred to in your letter dated 30 July 2013 alleges that the Ford Focus TVC contravenes Clause 2 (c) of the FCAI Code. Clause 2 (c) of the FCAI Code requires that advertisers ensure that advertisements for motor vehicles do not portray driving practices or other actions which would contravene any Commonwealth, State or Territory laws or road safety regulations, if they were to take place on a road or road-related area. The complainant expresses concern that the Ford Focus TVC, though demonstrating the Active City Stop feature, is in violation of "road rules governing inattentive driving".*

*You have indicated that the Board will review the Ford Focus TVC in its entirety against the FCAI Code, and accordingly, our response should address any issues within the Ford Focus TVC that fall broadly within the FCAI Code.*

*Allegation that advertisement contravenes S2 (c) of the FCAI Code*

*Ford Australia strongly disagrees with any allegation that the Ford Focus TVC contravenes the FCAI Code by depicting material which portrays a motor vehicle breaching any road related laws or regulations.*

*The Ford Focus TVC was carefully crafted to demonstrate the Active City Stop technology, without showing any driving which could be considered to be unsafe or inattentive. The Ford Focus TVC does not show any driving which would contravene any road related laws or regulations but rather uses a theatrical performance by the front passenger to show the type of situation the Active City Stop feature could assist to avoid.*

*Driver distraction is a significant issue on the roads and Ford recognises this. Ford's Active City Stop technology is aimed at helping to avoid or minimise the impact of collisions when traveling between speeds of 3.6 and 30km/h. This technology however, is not a substitute for driver alertness, and this is disclaimed in the advertisement itself. Active City Stop is particularly useful in urban environments where there is a large proportion of low speed driving, queuing and stop/start scenarios such as traffic lights and roundabouts. If the vehicle approaches a braking, slower moving or stopped vehicle in front and it determines that a collision is likely, the brakes are pre-charged. If the driver remains inactive (no steering or braking input), the car applies the brakes automatically and reduces engine torque. Active City Stop is not designed to be used as an alternative to normal driving and driver attention. As such the brakes are activated relatively late so that the driver would not become dependent on the system to slow/stop the vehicle as a matter of course.*

*Issues arising under Clause 2 of the AANA Code or the FCAI Code generally*

*Ford Australia submits that no issues arise under Section 2 of the AANA Code. The Ford Focus TVC:*

*(a) does not portray people or depict material in a way which discriminates against 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 believe (Section 2.1 of the*

AANA Code);

(b) does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people (Section 2.2 of the AANA Code);

(c) does not present or portray violence unless it is justifiable in the context of the product or service advertised (Section 2.3 of the AANA Code);

(d) does treat sex, sexuality and nudity with sensitivity to the relevant audience (Section 2.4 of the AANA Code);

(e) does only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium) (Section 2.5 of the AANA Code); and

(f) does not depict material contrary to prevailing community standards on health and safety.

*Ford Australia submits that no issues arise under the FCAI Code generally as the Ford Focus TVC does not depict:*

(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;

(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;

(d) people driving while being apparently fatigued, or under the influence of drugs or alcohol to the extent that such driving practices 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 directly with road safety or traffic regulation; or

(e) deliberate and significant environmental damage.

*If the ASB considers that any other issues arise under either of the codes, Ford requests the opportunity to be informed of the ASB's views in that regard so that an appropriate response can be made.*

*Ford Australia strongly believes that the Ford Focus TVC does not breach the AANA Code or 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) and the AANA Advertiser Code of Ethics (the "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 Board decided that the material in question was published or broadcast in all of Australia or in a substantial section of Australia for payment or valuable consideration given that it was being broadcast on television in Australia.

The Board determined that the material draws the attention of the public or a segment of it to a product being a Ford Focus Titanium in a manner calculated to promote that product. Having concluded that the material was an advertisement as defined by the FCAI Code, the Board then needed to determine 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 Ford Focus Titanium is 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 breaches road rules in its suggestion that the vehicle is able to stop itself.

The Board noted that as per the FCAI practice note, advertisements for motor vehicles which raise issues concerning safety are to be determined using the Motor Vehicle Advertising Code as opposed to the AANA Advertiser Code of Ethics and therefore clause 2.6 of the AANA Code of Ethics relating to community standards on health and safety does not apply.

The Board considered clause 2(c) of the FCAI Code. Clause 2(c) requires that: 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.

The Board noted the advertisement features a female and a male in the vehicle. The girl starts to tell the passenger about a vehicle coming to an abrupt stop in front of her car the day before. The male passenger takes over acting out how everything then goes on like it's in slow motion when you are about to crash. His speech slows, and his actions slow as he shows the movement of his drink and a pair of sunglasses.

The Board noted that the driver describes that the active city stop assisted in stopping the vehicle in this case and that nothing really happened. The voiceover then mentions the new feature of the “active city stop”. The Board noted that the advertisement does not depict any careless or reckless driving of the vehicle and the inclusion of the active city stop in new model cars is able to be advertised in a manner that is consistent with the FCAI Code.

The Board noted that in the present advertisement, there is no suggestion or depiction of the driver being inattentive. The Board noted that as the vehicle was not depicted driving in a manner that would breach the law it did not breach clause 2(c) of the FCAI Code.

Finding that the advertisement did not breach the FCAI Code the Board dismissed the complaint.