



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0291-19
2. Advertiser :	Volvo Car Australia
3. Product :	Automotive
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	25-Sep-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(a) Unsafe driving
FCAI Motor Vehicle Advertising Code\2(d) Fatigue-drugs-alcohol

DESCRIPTION OF ADVERTISEMENT

In the opening scenes of the advertisement, a woman is depicted leaving her home and saying goodbye to her partner as she prepares to set off into the stress of a working day. Separately, a young girl is shown leaving her family home in the morning to go to school. The advertisement follows these two people until their paths cross when the girl steps onto a crossing and the woman's vehicle uses its technology to avoid a collision with the girl.

THE COMPLAINT

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

The woman is yawning and reaching for her coffee when her car almost hits the girl on a pedestrian crossing. It is only for the car's superior technology that an accident is avoided. I object to this because it gives the message that you can be an inattentive, distracted driver and your car will have your back. I am also offended with a cut-in of the girl having a birthday party, implying that it may be her last.



THE ADVERTISER'S RESPONSE

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

We refer to the above complaint in connection with our television advertisement of the XC 60 model featuring Volvo's City Safety Technology ("the Advertisement").

Firstly, it should be known that Volvo Car Australia Pty Ltd ("Volvo Car Australia") takes its responsibility as an advertiser very seriously and makes extensive efforts to understand and respond appropriately to community concerns and issues, including by having in place our own stringent internal and external review and approval process.

We would also like to emphasise that Volvo Car Australia takes extremely 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 is fully aware of the potential impact of its advertising on the community as a whole. Accordingly, all of our advertising, including the Advertisement, are carefully reviewed to ensure both legal compliance and that community standards are respected. In fact, the Advertisement depicts global footage made available to us by our parent company abroad, and has been legally approved both globally and locally.

Importantly in the present context, Volvo Car Australia has built its reputation in the Australian market by promoting its world leading safety features. As a brand we are committed to delivering the world's safest vehicles. The City Safety Technology promoted in the Advertisement is indeed technology at the forefront of our commitment to this cause.

Volvo Car Australia does not encourage anyone to drive in a reckless and/or unsafe manner. Accordingly, we respectfully disagree with the complainant's characterisation of the Advertisement.

We have considered the complaint and the Advertisement in question in light of the provisions of the AANA Code and the FCAI Code. It is noted that the nature of the complaint relates to the FCAI Code.

We have carefully considered the AANA Code and the FCAI Code, and assessed their provisions against the content of the Advertisement. We submit that the Advertisement does not breach the AANA Code or the FCAI Code on any of the grounds set out in the same.

The Advertisement

The Advertisement is a television commercial produced by Volvo Car Australia in promoting Volvo's City Safety Technology.

The Advertisement commences with the voiceover stating:



"OMTANKE isn't just a word. It's a lens through which you can view the world and see things differently. It's a new perspective.....a considerate, more caring one".

In Swedish, the word "OMTANKE" means "consideration" and "care". The word "OMTANKE" is being used by the Volvo brand globally in illustrating its positive attitude to manufacturing vehicles incorporating safety technologies with "consideration" and "care" for drivers and communities at forefront.

In the opening scenes of the Advertisement, a lady is depicted leaving her home and saying goodbye to her partner as she prepares to set off into the stress of a working day. Separately, a young girl is shown leaving her family home in the morning to go to school. These are two very different perspectives of life and Volvo Car Australia uses these different perspectives to illustrate how the care and consideration (OMTANKE) invested into, and resulting from, its City Safety Technology bridges these two different perspectives to yield positive safety and community outcomes.

City Safety Technology is a driver support system designed to assist drivers if a pedestrian may suddenly emerge in front of their vehicle without warning. It operates with the aim of reducing the severity of, or even eliminating, some frontal collisions involving vehicles and pedestrians. It is not a substitute for the driver, but rather a driver assistance system. This is indeed clearly identified in the Advertisement at the relevant depiction of the technology's activation (at 23 seconds into the Advertisement) with prominent wording as follows:

"City Safety Technology operates within system parameters and is not a substitute for the driver's control over the vehicle. The driver remains responsible for the vehicle."

At Volvo, we approach everything through our "OMTANKE" philosophy. This means we evaluate all realities of the road and don't shy away from what can actually happen on the road. Importantly in this regard, the depiction of the operation of City Safety Technology in the Advertisement is realistic, intended to illustrate the potential realities of a day on the road and how our City Safety Technology can mitigate or potentially avoid accidents.

We also wish to highlight that it is clear that the driver in the Advertisement is not intentionally driving towards the pedestrian. The driver and the young girl are at all times depicted separately (viewing life from their vastly different perspectives) until such time as City Safety Technology positively intervenes in avoiding an accident. We again re-iterate that the depiction of the operation of the City Safety Technology in avoiding an accident is indeed realistic and intended to accurately reflect the technology's true utility and benefits.

We note further that the Ad Standards Community Panel ("the Panel") had to consider similar matters in Case Number 0454/18 in respect of a television commercial placed by Ford Australia, and the Panel determined, inter alia:



1. *that the vehicle "was not deliberately aiming for the pedestrian";*
2. *that the interpretation of most members of the community would differ from the complainant's interpretation;*
3. *"it is reasonable for a car manufacturer to demonstrate safety features on their vehicle".*

The Advertisement clearly is not suggesting to the viewer:

- (a) *that a motor vehicle ought to driven in violation of road rules/laws; or*
- (b) *that the motor vehicle substitutes poor driver behaviors, again noting the use of prominent wording set out above which reinforces that this is not the case.*

For the above reasons, we submit that the Advertisement is not in breach of the AANA Code or the FCAI Code. If you require any further assistance or information please do not hesitate to contact me.

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 Holden Trailblazer 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 features a woman that is yawning, and gives the message that a driver can be inattentive or distracted and the car will have their back.

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 complainants’ concern that the advertisement gives the message that a driver can be inattentive or distracted and the car will have their back.

The Panel noted the advertiser’s response that a disclaimer on screen states “City Safety technology operates within system parameters and is not a substitute for the driver’s control over the vehicle. The driver remains responsible for the vehicle”. The Panel noted that this disclaimer appears on screen when the brakes are used.

The Panel noted that the pedestrian crossing is located on a corner, and that this placement means the young girl may have only been briefly visible before reaching the crossing and entering the road space.

The Panel considered the vehicle did not appear to be driven at a high or excessive speed for the location. The Panel noted that there is not screeching or loud sounds that would indicate the vehicle was travelling at a high speed. The Panel considered there was no depiction indicating that the driver was deliberately aiming for the pedestrian, rather the young girl walks out in front of the car and the safety feature assists in stopping the vehicle prior to any collision.

The Panel determined that the advertisement did not portray driving that would be unsafe if it occurred on a road or road-related area and did not breach Clause 2(a) of the FCAI Code.

The Panel considered clause 2(d) of the FCAI Code. Clause 2(d) requires that:

“Advertisements for motor vehicles do not portray ... 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.”

The Panel noted that Cambridge Dictionary defines fatigue as “extreme tiredness”. The Panel noted that fatigue is often considered to be a symptom of a larger medical



issue, and the word is not typically used to reference a mild degree of tiredness, such as one may experience in the mornings.

The Panel noted that clause 2(d) of the Code includes both fatigue and being under the influence of drugs or alcohol. The Panel considered that the inclusion of both under this clause is indicative of the FCAI meaning fatigue referencing a substantial degree of exhaustion, rather than just being tired.

The Panel considered that yawning in the mornings is something that most members of the community would be able to relate to, and considered that yawning alone is not of itself a depiction of a level of fatigue that would inhibit safe driving.

The Panel determined that the advertisement did not portray a person driving while fatigued or under the influence of drugs or alcohol and did not breach Clause 2(d) of the FCAI Code.

The Panel noted the complainant's statement that the depiction of the child's birthday party was offensive, due to the implication that it may be her last.

The Panel considered that this concern does not raise an issue under the FCAI Code or the AANA Code of Ethics, and therefore the Panel cannot consider the complainant's interpretation of this element of the advertisement.

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