



Ad Standards Community Panel
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Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0303/18
2	Advertiser	BMW Group Australia
3	Product	Vehicle
4	Type of Advertisement / media	Cinema
5	Date of Determination	11/07/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

This cinema advertisement begins in a workshop in the 60s and shows men putting an engine into a Mini. A voice over states 'Don this will never work' and we see the mini in a Race. The Mini overtakes a number of competing cars and wins the race. Text stating 'The faith of a few can change the minds of many' appears on screen. A modern version of the Mini is then seen overtaking the 60s version.

THE COMPLAINT

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

Fast and possibly dangerous driving as rules not seemed to be obeyed on overtaking.

THE ADVERTISER'S RESPONSE

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



The advertisement in question is a 30 second cut-down of a longer form execution titled 'The Faith of a Few'.

Both the 30 second and 104 second executions tell the story of John Cooper and his involvement with Mini back in the early 1960's. Even under immense scrutiny from the public and racing community, his tuned classic Mini went on to win three Rallye Monte Carlo events. Set on the streets of Monte Carlo under the racing context, the executions conclude with the link from the original Mini to the modern MINI and the John Cooper Works performance brand.

This conclusion to the execution is the source of the complaint as the modern MINI overtakes the classic racing Mini without indication. Whilst we understand the concern, the greater context of the story needs to be taken into account; an execution that has won global recognition and awards, including a Cannes Lion at the International Festival of Creativity. This use of creativity to migrate from the 1960's and the racing track on the streets of Monte Carlo to the modern day, demonstrates that the ending scenes are not under regular driving conditions, with no other vehicles on the course.

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 Mini 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 shows the car driving in a dangerous and illegal manner.



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 that this cinema advertisement depicts footage of a Mini winning a race in the 60s, and then being overtaken by a modern version of the Mini.

The Panel noted the complainant's concern that the advertisement depicts fast and dangerous driving, with overtaking being performed without indication.

The Panel considered the advertiser's response that the advertisement is set on the streets of Monte Carlo during a racing event and the scenes are not being depicted as regular driving conditions.

The Panel noted that initial scenes of the advertisement sets up the context of the Monte Carlo race in the 1960s and considered that the depiction of the newer model car overtaking the old one was an extension of this scene depicting the evolution of the Mini.

The Panel considered that the retrospective nature of the advertisement and the use of the older model mini, does not create the impression that the newer model mini is speeding or driving in an unsafe manner.

The Panel considered that the depiction of the newer model overtaking the older model was a creative visual metaphor for the history and progress of the car design and was not a depiction that most members of the public would take literally.

The Panel considered that in the driving behaviour of the newer model car would not be considered to breach the law in the context of the Monte Carlo race that had been depicted.

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 the FCAI Code on any other grounds the Panel dismissed the complaint.

