



Case Report

1	Case Number	0330/11
2	Advertiser	KIA Automotive Australia
3	Product	Vehicles
4	Type of Advertisement / media	TV
5	Date of Determination	14/09/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

Motor vehicles Unsafe driving

DESCRIPTION OF THE ADVERTISEMENT

The commercial shows a man driving along the road in a Kia Sportage singing to music that reminds him of the times he had as a younger man. He imagines having one of his favorite songs playing with the actual musicians in the car with him, his ideal fantasy.

Upon arriving at home his partner reminds him that he was supposed to be buying nappies for his young child.

We see the Kia logo and the text, "Sportage. Grow up, not old."

THE COMPLAINT

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

Now driving a vehicle is not a fun thing it is a very serious matter where you have lives at risk and requires concentration on the conditions around you. Not bopping about and looking at your passenger.

Too many car and vehicle ads depict driving as a task that is a frivolous jaunt. I feel that being allowed to drive a vehicle is a privilege.

Both these advertisements show inappropriate behaviour and dress standards to a young audience and like others in the same vein should not be allowed to be shown or standards raised to prevent this type of advertising.

THE ADVERTISER'S RESPONSE

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

Kia Australia would like to reassure the ASB that it takes very seriously the Code of Ethics as outlined in the AANA, specifically Section 2.7 of the Code relating to the compliance with the Federal Chamber of Automotive Industries Code of Practice.

Please see following responses in relation to the specific Codes of the FCAI.

FCAI Provision

Section 2(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.

Response based on Section 2(a)

The Kia Sportage commercial raised in this complaint was filmed under controlled conditions at all times with traffic control contractors in place. At no time did the car travel in excess of 30km during the filming of this commercial. No extreme movements were performed during the filming of the commercial or broadcast as part of the final commercial.

FCAI Provision

Section 2(c) – Driving 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

Response based on Section 2(c)

Whilst the driver of the car is enjoying the music played in the commercial at no time does it depict any actions that would be deemed unsafe if conducted on a road or road related area. Prior to the filming of the commercial the driver was briefed to keep a hand on the steering wheel at all times and to keep their attention focused on the road. As required by law the driver and 2 passengers are wearing seatbelts for the entire commercial.

Other Issues raised in Complaint

In reference to comments raised about 'inappropriate dress standards to a younger audience' there are no provisions relevant in the FCAI that relate to this matter.

Again, Kia Australia would like to stress that it strongly supports the efforts of the ASB and FCAI and goes to extensive lengths to ensure that our advertisements DO NOT depict, encourage or condone dangerous, illegal, aggressive or reckless driving.

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).

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 Kia Sportage 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 Kia Sportage was 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 depicts the driver driving unsafely, specifically by 'bopping' around and looking at the passengers.

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

The Board 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 Board considered that the vehicle is, at all times, depicted driving in a safe and controlled manner and that the advertisement did not depict unsafe driving. The Board determined that these images did not breach clause 2(a) of the Code.

The Board then considered clause 2(c) of the FCAI Code which requires that advertisements for motor vehicles should not depict '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 behaviour of the driver of the Kia Sportage. The Board noted that the man is singing while driving and does look at the passenger at various times in the

advertisement. The Board considered that the driver appears to have full and appropriate control of the vehicle at all times while driving and that there was not any depiction in the advertisement of any driving practices or other actions which would breach any law and that the advertisement did not breach clause 2(c) of the FCAI Code.

The Board noted the complainant's concern about the manner in which the passengers are dressed and noted that this is not an issue that is relevant for consideration under the FCAI Code or, in this particular instance, under the Code of Ethics.

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