



Case Report

1	Case Number	0340/12
2	Advertiser	Suzuki Australia Pty Limited
3	Product	Vehicles
4	Type of Advertisement / media	Print
5	Date of Determination	22/08/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

Motor vehicles	2a Unsafe driving
Motor vehicles	2c Driving practice that would breach the law

DESCRIPTION OF THE ADVERTISEMENT

Press advertisement which shows images of a Hayabusa Motorcycle and a Kizashi Motor Vehicle. The images are side by side and at the bottom it says, "Two machines. One sporty DNA." In the centre of the advertisement is an image of a smart phone with a scan code and a screenshot of a car.

THE COMPLAINT

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

The advert shows a motorcyclist overtaking a car apparently at high speed on the wrong side of the road, on the wrong side of double white lines and on a blind bend.

The advert promotes a terribly wrong message to motorcyclists (particularly young motorcyclists) that such a dangerous manoeuvre is acceptable even courageous. We see road safety messages in the media every, day trying to reduce Australia's horrific road toll. It is sad that Suzuki do not realise the potential loss of life or injury their irresponsible advert may indirectly cause.

The reason for my complaint is that the bike is breaking Australian road rules and advertising such a thing as sporty is not right.

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 letter received on 7th August 2012 in relation to the above complaint. Firstly, we would like to emphasise that Suzuki Australia Pty Ltd takes its responsibility to promote safe driving extremely seriously, in line with its quest to manufacture vehicles that achieve the highest possible safety ratings. The Suzuki Kizashi has achieved a 5 star ANCAP Safety rating.

We also take very seriously our commitment to the AANA Code of Ethics ("AANA Code") and the Voluntary Code of Practice of Motor Vehicle Advertising set by the Federal Chamber of Automotive Industries ("FCAI Code"). We review our advertising carefully with the AANA Code and the FCAI Code in mind, including legal review and advice.

We have carefully considered the AANA Code and FCAI Code, and have assessed the provisions against the content of this 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.

We note that the advertisement is a Press Ad for a motor vehicle and features that vehicle being driven on a public road. Also included in the advertisement is an image of a Suzuki Hayabusa Motorcycle also being ridden on a public road.

The advertisement features two separate images, one of the motorcycle and another of the Kizashi motor vehicle. The press advertisement links to the TV ad and video displayed via the QR code which shows the Hayabusa motorcycle transforming into the Kizashi Motor Vehicle. It is clear that these are two separate images and that the motorcycle is not actually overtaking the Kizashi. There is no indication of speed. The vehicles were travelling within the speed limit at all times when these images were shot. This is made clear by the video and the TV ad on air at the same time.

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 Suzuki motorcycle and a Suzuki car 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 Suzuki vehicles in the advertisement were Motor vehicles 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 complainants' concerns that the advertisement shows a motorcyclist overtaking a car at speed and on the wrong side the road and that this is a dangerous depiction which breaches Australian road rules.

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 noted that this print advertisement depicts two images side by side: one of a motorcycle and one of a car. The Board noted the complainant's concerns that the advertisement depicts the motorcycle overtaking the car on the wrong side of the road and considered that this is an unlikely interpretation of the advertisement as it is clear that the images of the motorcycle and the car are separate.

On the above basis, the Board determined that the advertisement does not depict unsafe driving nor reckless or menacing driving that would breach any law and does not breach clause 2(a) of the FCAI Code.

The Board then considered whether the advertisement breached clause 2(b) of the Code. Clause 2 (b) provides that advertisements should not depict "People driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast."

The Board noted the advertiser's response that the vehicles were travelling within the speed limit at the time the images were taken. The Board noted that the speedometers of both vehicles are not shown and considered that there is no indication or suggestion that either vehicle is travelling at excessive speed or is breaking the speed limit for the road they are driving on.

Based on the above the Board determined that the advertisement did not breach clause 2(b) of the Code.

The Board then considered whether the advertisement breached clause 2(c) of the Code. Clause 2(c) of the FCAI Code provides that advertisers should 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 dealing directly with road safety or traffic regulation’.

Examples are given in the FCAI Code of illegal use of hand-held mobile phones or not wearing seatbelts in moving motor vehicles.

As above, the Board noted that the advertisement presents two separate images side by side and considered that both images present vehicles driving in conditions which do not appear to be in breach of any law relating to road usage.

The Board determined that the advertisement 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.