



Case Report

1	Case Number	0341/17
2	Advertiser	Lexus Australia
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	09/08/2017
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving
FCAI Motor Vehicles 2(b) Breaking the speed limit

DESCRIPTION OF THE ADVERTISEMENT

The Lexus LC 500 launch not only signifies a new model release it also introduces the line of 'Experience Amazing' to the brand. Vision of a driver experiencing the LC is complemented by words from the author extracted from the full review.

THE COMPLAINT

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

The ad clearly depicts speeding and rapid acceleration which is illegal, dangerous and against the advertising code.

The ad shows and encourages excessive speed and when our government's road safety message of every kilometre over the speed limit is a killer this ads total disregard for road rules and encouragement the speed is a bad example for younger drivers.

The advertisement was all about the power and speed of the vehicle. It had no regard to the fact that speed and motor vehicles kills people. As a former police I have put people in body bags after accidents and it is not pleasant. How about preventing advertisements that encourage speeding.

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 letters received on 21 and 24 July in relation to the above complaint.

We have considered the complaints and the advertisement in question in light of the provision of the AANA Code of Ethics ("AANA Code") Section 2 and the FCAI Code of Practice for Motor Vehicle Advertising. We note that the nature of the complaints relate generally to the AANA Code and FCAI Code and specifically to the concern that the ad in question contains imagery that is alleged to portray unsafe driving, including speeding or other practices which would contravene road safety regulations, if they were to take place on a road or road-related area.

Firstly, we would like to acknowledge that we take all complaints received very seriously.

The purpose of the advertisement is to bring to life the visceral feeling of driving a sports coupe. To that end, the camera technique we employed moves against the direction of the vehicle which when paired with the dramatized music helps to create the visceral feeling for the viewer.

Despite what we have outlined above, in acknowledgement of the complaints received and the fact we take safe driving very seriously we will modify the advertisement as follows:

30 second TVC spot

- 1. 0:11 seconds: Although we don't believe this scene needs to be altered given the vehicle is driven on an unsealed road, it will be replaced in the spirit of the complaints received.*
- 2. 0:21 seconds & 0:25 seconds: Both these scenes will be slowed down.*

Please note that equivalent alterations to the corresponding sequences within the 60 sec TVC spot will also be addressed.

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 then considered 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 Lexus LC 500 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 speeding and rapid acceleration.

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 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 Board noted the advertisement features the vehicle – a Lexus being driven out of a vehicle shipping container and commences driving along an ocean side road. The vehicle continues along the road and onto a road lined with trees appearing to be a country road. The vehicle drives past a woman on the side of the road. A male voiceover (author) describes the features of the vehicle. The final screen shot reads "Lexus – experience amazing."

The Board noted the complainants concerns that the advertisement depicts driving behaviour that is unsafe as the vehicle is driven at excessive speeds.

The Board noted the advertiser's response that the advertisement was filmed in a particular way to create a particular feeling for the viewer.

The Board noted that at the beginning of the advertisement , the speed of the vehicle is seen and reaches 87 kms and rising. The Board noted that this is the only visual representation of how fast the car is moving. The Board noted that that advertisement uses words such as:

"clearly a beast"

"adrenaline rush"

"watching the rest of life trying to keep up in the rear view mirror"

The Board noted that there were scenes of the vehicle stirring up dust and dirt behind it and the progression down the country road does give the impression of speed. The Board noted the woman looks on with awe as the vehicle passes her.

A minority of the Board considered that the advertisement was intended to create a new impression of the Lexus and was aiming to make it appear more 'tougher' and was likened to

a 'beast.' In the Board's view the impression of speed was part of this approach and was not indicative of a vehicle travelling at excessive speeds.

The majority of the board felt that the overall tone of the advertisement was of power and speed and that the speed the vehicle was travelling was too fast for the roads it was driving along. In the Board's view the accumulative effect gives the impression that the vehicle can and was travelling at excessive speeds and was therefore driving unsafely.

The Board acknowledged that there is a level of community concern around unsafe driving practices and speeding and that overall the accumulative effect of all of visuals and sounds does amount to a portrayal of driving which is unsafe which would breach Commonwealth law or the law of any State or Territory.

The Board determined that the advertisement did breach Clause 2(a) of the FCAI Code.

Finding that the advertisement did breach the FCAI Code on the above grounds, the Board upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

We take all complaints received very seriously. In response to the complaints received we have modified the LC television advertisement ("Advertisement") in a way we believe has addressed those complaints. The modified Advertisement commenced airing on 6 August 2017.

The modified version of the Advertisement has made the following alterations:
30 second TVC spot*

1. 0:11 seconds: Although we don't believe this scene needs to be altered given the vehicle is driven on an unsealed road, it has been replaced in the spirit of the complaints received.
2. 0:21 seconds & 0:25 seconds: Both these scenes have been slowed down.

*Please note that equivalent alterations to the corresponding sequences within the 60 second television advertisement have also be addressed.

We consider that the modifications identified above have improved the overall tone of the advertisement.