



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0365/16</b>
<b>2</b>	<b>Advertiser</b>	<b>Volkswagen Group Australia Pty Limited</b>
<b>3</b>	<b>Product</b>	<b>Vehicle</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>14/09/2016</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

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

## DESCRIPTION OF THE ADVERTISEMENT

The advertisement portrays the ŠKODA Octavia RS driving sedately through a suburban neighbourhood designed to talk about its impressive power through some metaphors rather than a driving demonstration. The additional feature highlighted in this execution is ŠKODA's SmartLink that allows seamless smartphone integration within the vehicles infotainment system.

## THE COMPLAINT

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

*This is encouraging drivers (young ones in particular) to read a screen within the car instead of looking ahead to drive safely.*

## THE ADVERTISER'S RESPONSE

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

*We refer to your letter and note the contents.*

*The advertisement portrays the ŠKODA Octavia RS driving sedately through a suburban*

*neighbourhood designed to talk about its impressive power through some metaphors rather than a driving demonstration. The additional feature highlighted in this execution is ŠKODA's SmartLink that allows seamless smartphone integration within the vehicles infotainment system (the "advertisement").*

*The advertisement was approved by CAD with reference number G1WZAMVA and CAD rating of "G". The advertisement was published/broadcasts in 2015 in all States/Territories across Australia and made available online via ŠKODA's social channels such as Facebook and YouTube. However the advertisement is only currently running on the SBS network and scheduled to conclude on 10 September 2016.*

*Volkswagen Group Australia's Response:*

*We have reviewed the FCAI Code of Practice for Motor Vehicle Advertising, together with the AANA Advertiser Code of Ethics and comment as follows:*

*FCAI Code:*

*The driving depicted in the advertisement conforms to all relevant Australian road safety regulations. The concerns from the complaint received are that the driver is accessing the vehicles infotainment system to read messages, which is not the case with this feature. The driver will press the button to activate the voice command feature to allow the driver to orally receive and send messages, allowing the driver to continue to focus on the road. The product has been designed to facilitate driving within the acceptable legal limitations.*

*The driver is not reading the screen as there are no words from any text message received displayed on the screen. The technology does not permit this. The words are read out verbally by the infotainment system.*

*There is nothing illegal about accessing the infotainment system by using the touch screen while driving the vehicle. In deed the same argument applies when touching the touch screen to change radio stations.*

*We encourage all our customers to enjoy the technology provided in our cars including the infotainment touch screen systems at all times.*

*In response to the specific queries outlined in your letter, we respond as follows:*

*If required some rationale for addressing specific issues as outlined in the complaint:*

*What assurances can the advertiser provide than any driving depicted in the advertisement would conform to relevant road safety regulations, were it to occur on road or road-related area?*

*The advertisement is not in breach or contrary to the FCAI Code and does not contradict any road safety regulations.*

*Can the advertiser confirm that any vehicles portrayed in the advertisement were driven within legal speed limits at all times?*

*The vehicle shown in the advertisement does not exceed any speed limit and is driven*

*sedately through the environment with no sense of speed or dangerous driving.*

*Was it necessary for the advertiser to obtain any special permission/ permits to undertake filming of any driving sequences depicted in the advertisement?*

*No permissions or permits were required, however the advertisement was filmed under controlled traffic conditions on a closed road.*

*Has the advertisement being published/broadcast in all of Australia? Are there any States/Territories where the advertisement has not been published/broadcast?*

*Yes, the advertisement was published/broadcasts in 2015 in all States/ Territories across Australia in free-to-air and prescription television. In 2016, the advertisement is only currently running on the SBS network and scheduled to conclude on 10 September 2016.*

*Has the advertisement been made available on the internet?*

*The advertisement has been available on the internet via Facebook and Youtube channels.*

*There was no use of motorsport in the advertisement.*

*There was no use of or depiction of off-road vehicles in the advertising.*

*AANA Code of Ethics:*

*In relation to section 2 of the AANA Code of Ethics, the advertisement does not portray people or depict material in a discriminatory manner. There is no sexual appeal which is exploitative and degrading of any individual or group of people. There is no portrayal of violence in anyway whatsoever. There is no sexuality or nudity in the advisement. There is no inappropriate language used in the advertisement. There is no material promoted contrary to prevailing community standards on health and safety as detailed above.*

*Finally, Volkswagen Group Australia is committed to co-operating with the Advertising Standards Bureau and that any issues raised by the Advertising Standards Bureau will be addressed promptly and diligently.*

## **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 determined that the material before it was an advertisement.

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 Volkswagen Skoda Octavia 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 a driver touching a screen while driving instead of looking at the road and this could encourage copycat behaviour, especially by younger drivers.

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

The Board considered clause 2(c) of the FCAI Code. Clause 2(c) requires that '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 that this television advertisement features a Skoda Octavia driving through a suburban neighbourhood and being admired by the various people the car passes.

The Board noted that in some scenes we see the Octavia's 'infotainment system' which features a touch screen which can be integrated with a smartphone. The Board noted that while we see a person using the screen the Board considered that we cannot see if the car is in motion at the time the screen is being used. The Board noted that we do not see the driver reading the screen while driving and considered that there is no suggestion in the advertisement that the driver is being distracted by this screen or that he is not fully in control of the vehicle at any time.

The Board acknowledged that driver distraction is a serious issue but considered that in this instance the advertisement is promoting a legally allowed product being used in the correct manner which is not dangerous or in breach of any law.

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.

