



Case Report

1	Case Number	0417/17
2	Advertiser	Ford Motor Co of Aust Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	27/09/2017
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

The asset in question is a television commercial produced by Ford, which shows an opening tagline followed by number of artistic stationary shots of the Ford Mustang in an expansive open and controlled environment. It then moves off from its stationary position and a number of dynamic shots of the Mustang in motion are shown, followed by the Ford logo and “Drive One Now” tagline.

THE COMPLAINT

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

Extremely based on 'Speed' capability of vehicle.

It is completely inappropriate as per normal acceptable use of a motor vehicle. All it does is encourage life threatening driving behaviour.

THE ADVERTISER'S RESPONSE

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

I refer to your email and letter in relation to a complaint received by the Advertising Standards Bureau (ASB) regarding a Ford Mustang television commercial (Mustang TVC).

Introduction:

I would like to emphasise that Ford Australia takes seriously its commitment to the AANA Code of Ethics (AANA Code) and the FCAI Voluntary Code of Practice for Motor Vehicle Advertising (FCAI Code), and we are aware of the potential impact that our advertising may have on members of the public. All of our advertising, including the Mustang TVC, are carefully reviewed in that context and is approved by legal counsel. In this instance, we firmly believe that the scenario depicted in the Mustang TVC does not breach the FCAI Code or the AANA Code, and accords with prevailing Community Standards.

Your letter suggests that the Mustang TVC may raise issues in relation to Section 2(a) (unsafe driving) and Section 2(c) (Driving practice that would breach the law) of the FCAI Code. Your letter also indicates that the Board will review the Mustang TVC against the entirety of Section 2 of the AANA Code. Accordingly, our response addresses these considerations.

Response to Complaint:

We have taken the complaint raised very seriously and the Mustang TVC has been carefully considered by our marketing team and legal counsel.

In response, we'd like to point out the following:

- The Ford Mustang is a rigorously designed, engineered, and tested high-performance sports car that adheres to all Australian Design Rules.*
- The entire Mustang TVC was filmed on a closed tarmac runway at Goulburn Airport, New South Wales.*
- A CAMS-licensed, professional driver was hired for filming the Mustang TVC and was behind the wheel of the Mustang at all times.*
- Despite speed limits not applying to the private runway hired for filming, during the Mustang TVC the vehicle is travelling at 60-70 km/h, and any perception of speed is a result of dynamic filming and editing techniques designed to enhance the energy and excitement of the commercial. These include: the camera vehicle passing the Mustang at similar speed in the opposite direction, the camera panning past the Mustang in an opposing direction, and speeding up the captured footage during editing.*
- The image of the Mustang's tachometer reaching 6,000rpm was filmed while the vehicle was stationary and in neutral. The tachometer displays the engine revolution frequency and does not indicate vehicle speed, as proven by the fact that the engine reached 6,000rpm while motionless. The vehicle will reach 6,000rpm in first gear at a speed of approximately 67 km/h, well below the 100 km/h default speed limit for non-urban roads in New South Wales.*
- There were no "burnouts" performed during the Mustang TVC. A burnout is a technique used in drag racing to heat up the tyres, where the car is held stationary while the driven wheels are spun, causing smoke and heat from the friction between the tyres and road. The Ford Mustang is available overseas with a "Line-Lock" mode that facilitates easy execution of burnouts when drag racing at a private strip. This mode was specifically disabled for the Australian market so as to not encourage hooning or other dangerous behaviour. The image of the rear-wheel of the Mustang as it moves off from stationary was filmed in slow-motion, which means small slippage of the tyres against the tarmac are accentuated. This shot was included to show the Mustang's suspension and tyres capably harnessing the 530Nm of torque being sent through them by its 5.0L V8 engine during take-*

off.

We believe that given the Mustang TVC is depicted in an expansive and controlled environment filmed on a private runway, and that all shots of the Mustang are either stationary or driving in a controlled straight line at speeds well below the default speed limit, it does not at any stage encourage dangerous or "life threatening" behaviour as claimed by the complainant.

Issues arising under section 2 of the AANA Code

Ford Australia submits that in respect of Mustang TVC, no issues arise under section 2 of the AANA Code. The Mustang TVC:

- Does not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief (Section 2.1 of the AANA Code);*
- Does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people (Section 2.2 of the AANA Code);*
- Does not present or portray violence unless it is justifiable in the context of the product or service advertised (Section 2.3 of the AANA Code);*
- Does treat sex, sexuality and nudity with sensitivity to the relevant audience (Section 2.4 of the AANA Code);*
- Does only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium) (Section 2.5 of the AANA Code); and*
- Does not depict material contrary to prevailing community standards on health and safety (Section 2.6 of the AANA Code).*

If the ASB considers that any other issues arise under the AANA code, Ford requests the opportunity to be informed of the ASB's views in that regard so that an appropriate response can be made.

Ford Australia strongly believes that the Mustang TVC does not breach the AANA Code. I trust that this correspondence adequately addresses the concern raised in the complaint referenced.

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 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 Board 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 Board determined that the Ford Mustang 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 vehicle doing a burnout, speeding, and reaching 6,000rpm.

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 that this television advertisement features the text on screen first that reads "don't watch from the bench." The vehicle is shown from the outside and is sitting in the open on a closed tarmac runway. The car is heard revving the engine before the rev counter is shown reaching over 6000 rpm and the car, does a burnout and takes off down the tarmac. The words read "drive one now."

The Board noted that the driving in the advertisement takes place on a closed tarmac and considered that although the vehicle appears to be travelling at speed, and revving the engine and doing a burnout, in the Board's view these driving practices are clearly in the context of a vehicle being driven in a controlled environment in order to demonstrate the handling capabilities of the Mustang. The Board considered that there is no suggestion in the advertisement that the driving depicted, would be appropriate for normal on-road driving. The Board acknowledged that the driving depicted in the advertisement would not be appropriate on a public highway but considered that in the context of a performance vehicle and whose target audience would include adults who are likely interested in modern performance cars, the actual content of the advertisement does not depict unsafe driving.

The Board 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 Board determined that the advertisement did not breach Clause 2(a) of the FCAI Code.

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.'

(examples: illegal use of hand-held mobile phones or not wearing seat belts in a moving motor vehicle. Motor cyclists or their passengers not wearing an approved safety helmet, while the motorcycle is in motion]."

The Board noted that the vehicle depicted in the advertisement is clearly in a controlled environment and there are no other vehicles around.

The Board considered that the advertisement is similar to previously dismissed advertisements for BMW showing the performance capabilities of the vehicle and considered that the advertisement does not depict a driving practice that would breach any law and determined that the advertisement did not breach clause 2(c) of the FCAI Code.

Finding that the advertisement did not breach the FCAI Code on any grounds, the Board dismissed the complaint.