



Case Report

1	Case Number	0464/15
2	Advertiser	Ford Motor Co of Aust Ltd
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	25/11/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

FCAI Motor Vehicles 2(a) Unsafe driving

DESCRIPTION OF THE ADVERTISEMENT

This Advertisement forms part of Ford Australia's launch campaign for 'The Teched-Up' Focus. The Advertisement begins by depicting a female actor approaching and starting her vehicle which is positioned at the end of a U-shaped driving lane created using two rows of blue drum kits and drummers in a U-shape. The blue drum kits and drummers have been used for artistic effect and assist in demonstrating certain features, such as voice controlled music, and highlighting our hero colour. For example, when the actor enters the car she uses a voice command to start the music, which prompts the drummers to start drumming. She then proceeds to drive forward and then backwards in the driving lane, allowing us to show the EcoBoost badge on the rear of the vehicle and then the availability of the rear camera. Finally, the actor inputs a voice controlled command prompting the Satellite Navigation system to take her home. The vehicle then drives out of the driving lane, turns and comes to a stop in a clearing.

THE COMPLAINT

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

The advertisement shows sudden and unnecessary changes of speed and direction that would attract a fine if such driving were carried out on a public road, particularly in close proximity to people.

THE ADVERTISER'S RESPONSE

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

Allegation that Advertisement contravenes Clause 2 of the FCAI Code

The complainant alleges that the nature of driving ('sudden and unnecessary changes of speed and direction') would attract a fine if carried out on a public road, particularly if carried out in close proximity to pedestrians.

Overall, the driving sequence in the Advertisement has a similar number of speed and directional changes as would be required to complete a three point turn, which is a common and lawful driving practice on roads/road related areas. As described above, each of these changes is used to highlight one of the technologies available on the "Teched Up Focus".

Ford Australia would like to highlight that this Advertisement was shot in a tightly controlled, studio environment with a hired professional driver, Mr Rick Bates. Mr Bates is a professional precision driver (<http://www.batesadvanceddriving.com/>) who operates courses in defensive and precision driving. Moreover, a qualified Film Safety Officer was in attendance at all times. Both Mr Bates and the Safety Officer were consulted extensively during the pre-production stages and at the shoot itself. At the outset of this Advertisement we reference these conditions through the disclaimer 'Filmed under controlled conditions with a professional driver'.

In the driving sequence depicted and throughout filming, the driver maintained speeds between 20-30km/h; well below the speed limit in residential and school zones. Each driving sequence was tested in 'slow motion' prior to filming and the drum kits and drummers were placed accordingly, maintaining a safe distance of approximately 2m between the vehicle and each drum kit. The drummers are stationary at all times. In real life driving situations, this would be an acceptable speed in narrow residential streets/school zones where circumstances are unpredictable and there is a risk of pedestrians, pets and other objects entering the road area. Also, while several drummers and drum kits were present at the time of filming – they were multiplied in post-production for the purpose of artistic effect.

The driving sequence commences at 00:08 seconds and from 00:08-00:12 seconds illustrates the car driving forward, a common practice in everyday driving. The actor is presented in a matter of fact way. She engages with the vehicle features in a way that is appropriate and gives due attention to her surroundings. From 00:12-00:14 the vehicle comes to a stop, braking in a manner that reflects everyday driving scenarios and has been amplified by the camera angle.

The driver then puts the car into reverse, slowly reversing from 00:14-00:16 with the majority of the footage shown through the reverse camera. The message on the reverse camera screen reminding the driver to check surroundings is shown. The car is stationary while the actor inputs the voice command for satellite navigation and an aerial shot from 00:21 shows the car driving off after having stopped a safe distance away from the drum kits and drummers.

From 00:21 the car is shown driving forward and out of the opening to the driving lane. It

then turns in a controlled manner and proceeds to a stop in a clearance. This final frame, as with all of the driving, was completed by a professional driver, in a controlled environment at low speed.

Overall, we believe the Advertisement is appropriate and compliant and does not encourage or condone dangerous, illegal, aggressive or reckless driving. In particular, we strongly disagree that the changes of speed and direction depicted in the Advertisement would attract a fine if they occurred on a public road, including in close proximity to people.

Issues arising under section 2 of the AANA Code or the FCAI Code generally

Ford Australia submits that no issues arise under the FCAI Code or other provisions in section 2 of the AANA Code. The Advertisement:

(a) 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);

(b) 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);

(c) 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);

(d) does treat sex, sexuality and nudity with sensitivity to the relevant audience (Section 2.4 of the AANA Code);

(e) 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

(f) does not depict material contrary to prevailing community standards on health and safety.

As I have outlined, for the FCAI Code, the Advertisement does not raise issues under this code as it does not depict:

(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;

(b) people driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast;

(c) 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;

(d) people driving while being apparently fatigued, or under the influence of drugs or alcohol to the extent that such driving practices 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; or

(e) deliberate and significant environmental damage.

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

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 Ford Focus in a manner calculated to promote that product. The Board concluded that the material is an advertisement as defined by the FCAI Code.

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 Ford Focus 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 being driven in a manner which involves sudden and unnecessary changes of speed and direction in close proximity to people and would attract a fine if carried out on a public road.

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 a Ford Focus driving between members of a band to showcase the voice-activation features of the vehicle.

The Board noted the complainant's concerns that the advertisement shows a vehicle making sudden and unnecessary changes of speed and direction. The Board noted the advertiser's response that although we see a female entering the Ford and providing the voice commands, the actual driver of the vehicle is a professional driver who maintains speeds of between 20-30 km/h throughout the driving scenes.

The Board noted that the Ford's movements are intended to showcase the vehicle's voice activated controls and considered that the changes in direction are not sudden or unnecessary. The Board noted that as the advertisement has been filmed indoors there is not a posted speed limit for the vehicle to follow but considered that the manner in which the vehicle is being driven is not suggestive of excessive speed for the circumstances and the driver appears in full control throughout the advertisement.

The Board noted that the Ford is driven in aisles between band members and considered that at no time does any person appear to be in danger from the driving practices of the Ford.

The Board noted the final scene shows the Ford coming to a stop via a turn.

The Board noted the complainant's concern that if such driving were to be carried out on a public road it would attract a fine.

The Board noted it had previously upheld an advertisement which featured a Fiat being driven on public roads and skidding as it turned through ninety degrees in case 0053/13 where:

“The Board noted that although there is no verification of the actual speed of the vehicle, the visuals in conjunction with the rapid gear change and roaring of the engine give an impression of speed.

The Board noted that when the vehicle performs the ninety degree turn there is a small disclaimer on screen which states, “Professional driver on closed roads”. The Board noted that in this scene there is a clear loss of traction and we can see smoke from the tyres as well as hear the accompanying noises consistent with wheel burn. The Board considered that notwithstanding the disclaimer, the overall impression is one of a vehicle being driven in a manner which depicts and condones driving a vehicle at excessive speed in a manner which is unsafe and that there is no context to the change of direction which makes it appear necessary.”

In the current advertisement the Board noted that we do not hear any engine noise or see the actual speed in which the vehicle is traveling and considered that overall the car appears to be under control throughout this manoeuvre and there is no suggestion of loss of traction or unsafe or dangerous driving.

The Board considered that whilst the manner in which the car comes to a stop at the end of the advertisement is not necessarily illegal or unsafe it is not a driving practice which should be encouraged. The Board considered the car’s actions as if they were on a public road and considered that such action would not necessarily be unsafe on a public road.

The Board considered that overall the advertisement does not portray any driving which is unsafe, or reckless or menacing driving 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.

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