



Case Report

1	Case Number	0474/12
2	Advertiser	KIA Automotive Australia
3	Product	Vehicle
4	Type of Advertisement / media	TV
5	Date of Determination	12/12/2012
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 Kia commercial features a group of people playing musical instruments on the surfaces of the different Kia cars. We then see the various cars driving through a city.
The commercial features the line 'Move to a different beat'

THE COMPLAINT

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

The car appeared to be speeding through a city area. In Melbourne we have recently had our CBD speed limit reduced to 40kms per hour. This ad clearly made the new Kia look good travelling very fast in the city. Given the present National road toll and traffic management in our city, I believe this to be inappropriate.

THE ADVERTISER'S RESPONSE

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

Kia Australia

Response to Complaint Reference 0474/12

Kia Australia would like to reassure the ASB that it takes very seriously the Code of Ethics as

outlined in the AANA, specifically Section 2 of the Code that relates to the FCAI Code of Practice.

Please see following the response to the complaint.

FCAI Provision 2 (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.

Response

The Kia commercial in question was filmed and produced overseas by an Agency commissioned by Kia Korea. This footage was then adapted by our Australian Agency and edited to comply with Australian requirements under the FCAI Code.

Please consider the following when reviewing this commercial.

- 1. The commercial was produced with strict guidelines in relation to adhering to all road rules*
- 2. The vehicles portrayed in the commercial were driven within the legal speed limits.*
- 3. The shot in question featuring the silver Sorento driving through the tunnel was a closed set with traffic controls in place at all times.*

The section of the commercial in question falls between 25 and 26 seconds of the TVC. At this point of the commercial the camera is tracking the speed of the vehicle through a tunnel. The speed of the Sorento is within the legal limits of the road with which the scene takes place.

Please be assured that Kia Australia fully supports the efforts of the ASB and FCAI and goes to extensive lengths to ensure that all Kia advertising complies with the Code.

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 Kia branding advertisement 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 range of Kia vehicles shown are 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 complainant's concerns that the advertisement depicts a vehicle speeding through a city street.

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 that the advertisement includes one specific scene of the Kia range of vehicles moving through an intersection at an accelerated pace.

The Board noted that the examples given in the FCAI Code for unsafe driving include "...vehicles travelling at excessive speed; sudden extreme and unnecessary changes in direction and speed of a motor vehicle...."

The Board noted that as the vehicle travels through the intersection, although there is no verification of the actual speed of the vehicle, the visuals in conjunction with the roaring of the engine give an impression of speed.

The Board considered that roads across Australia have specific speed limits and vehicles are able to drive to those speeds when conditions allow. The Board considered however that the depiction of speed in this section of the advertisement could be considered excessive in a built up area of a town or city.

The Board considered that the depiction of the Kia vehicle in the advertisement is presented in a manner that is unsafe.

On the above basis, the Board determined that the advertisement does depict unsafe driving that would breach any law and does breach clause 2(a) of the FCAI Code.

Finding that the advertisement did breach the FCAI Code, the Board upheld the complaint.

ADVERTISER RESPONSE TO DETERMINATION

As previously stated in our response, Kia Motors Australia supports the efforts of the ASB and the Code of Ethics as outlined in the FCAI. The commercial in question has been removed from TV broadcast and will be revised as per the ASB's comments prior to airing again.