



CASE REPORT

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| 1. Complaint reference number | 235/07 |
| 2. Advertiser | Suzuki Australia Pty Ltd (Swift) |
| 3. Product | Vehicles |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | FCAI - Driving practice that would breach the law
FCAI - Speeding |
| 6. Date of determination | Tuesday, 14 August 2007 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows a young man waking up very early to the radio announcer describing the treacherous road conditions that morning. We hear the warning "heavy rain making the roads very slippery...all the freeways are heavy inbound, forcing traffic onto the backroads...we've already had a few bingles...a real challenge for drivers getting to work this morning....." The man smiles as he heads to his car commenting "Maybe for some..." followed by rally footage of a yellow Suzuki traversing bush tracks, rocky terrain, snow and water. A male voiceover states "Every drive's a rally drive - Suzuki Swift".

THE COMPLAINT

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

The weather and traffic conditions, as reported, clearly require slower and safer driving than normal but the ad is pushing for drivers to speed and drive in a dangerous manner. The rally footage and voice over slogan promote dangerous driving, especially in the context of what appears to be the man's regular commute.

We frequently hear news reports of fatal accidents which involve young drivers losing control of their vehicle. This ad encourages them to drive too fast and targets young males. My feeling is that it is dangerous and encouraging the kind of behaviour likely to result in further fatalities and injuries.

This advertisement suggests to the target market (younger people - due to the price of the vehicle) that every drive should be driven as if you are in a rally - even on a drive to the office. With the road toll statistics and the predominance of younger people involved in road accidents this sort of advertisement is unacceptable.

The man in the ad infers through his facial expression and comment that by driving his Suzuki Swift he can drive like a rally driver in wet conditions on city traffic to avoid being late. It gives the impression that Suzuki Swifts are safe to drive as a "rally car" in unsafe conditions. This encourages unsafe driving which can be potentially harmful.

Because it promotes careless and irresponsible driving.

I find the ad offensive as I believe it promotes speeding and unsafe driving. It seems to give the impression that if you own a Suzuki Swift, you do not have to adhere to the road rules or take the conditions into consideration. According to the Department of Transport & Regional Services, speed is a factor in almost 50% of fatal crashes, why do we feel the need to promote and encourage reckless behaviour?

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

As a worldwide leader in the automotive industry, Suzuki takes its corporate responsibilities towards motor vehicle and driving safety very seriously and would never want to encourage any person to drive in an unsafe fashion. Consequently, we strongly refute any allegation that the current Suzuki Swift commercial promotes unsafe, reckless or menacing driving or that it depicts cars driving at speeds in excess of the speed limits. Suzuki Australia firmly believes that the complaints about this commercial are dealt with in regard to what is actually in the commercial, not what some viewers believe they saw in the commercial.

We note that a number of the complainants seem to claim that the commercial depicts actions or activities which it clearly does not. For example:

- our hero never gets into any car, let alone drives any car, so he is not portraying any form of driving*
- the only form of driving footage shown is the rally footage, legally and properly obtained and used in compliance with the FCAI code.*

In the commercial, our hero responds with quiet confidence to the "challenging conditions", which are forcing many other cars off the freeway and onto the backroads. He knows that because his car has rally proven safety, reliability and handling features, he can drive to work safely and securely. Apart from the rally footage used, the entire tone and manner of the commercial is very understated in order to portray a mood of quiet confidence in the car's capabilities.

It is important to note that the central character in the commercial does not, at any time get into his vehicle and drive it, in any manner whatsoever. It remains at all times throughout the commercial parked completely static in his garage. Despite the perceptions of some complainants, the only time the vehicle does appear to move is as part of the end graphic which merges into the Suzuki Australia corporate logo. However a close examination of this scene will show it is a highly stylised, graphic shot of the rear of the car, in a black "limbo" background, which, by using a post production technique, appears to move away from camera. It is not however taking place in the real world and no attempt was made to make it appear that the car is being driven in the real world.

In order to draw a clear distinction between the real world of our central character and the rally footage used in the commercial, Suzuki Australia went to great lengths to ensure that there was no confusion between the rally version of the car, which is bright yellow, and the red street version of the car. It was also our clear intention to ensure there was no confusion between the different ways each car should be driven. We did so to ensure we avoided any suggestions that our depiction of the rally footage should in any way be associated with normal on-road use of the motor vehicle. The footage was used in accordance with the provisions of the FCAI Voluntary Code of Practice for Motor Vehicle Advertising. The Suzuki Swift Rally car is clearly in racing livery, being bright yellow, covered in sponsor logos and clearly being driven on a secure rally course by professional rally drivers.

Suzuki Australia can assure the ASB that, apart from the legitimately sourced and correctly utilised rally footage shown in the advertisement, no cars were actually depicted driving in the advertisement at all. Suzuki Australia can assure the ASB that, apart from the rally footage used in the advertisement, any cars depicted in the advertisement were completely stationary at all times. No driving sequences of any kind were filmed in the advertisement and so no special permission was sought nor required. The rally footage used is commercially available footage obtained from the organisers of the World Rally Championship. We sought and received the necessary permission to use the footage.

In summary, we conclude that the complaints should be dismissed on the ground that:

1) The character in the commercial does not, at any time get into the vehicle and drive it, in any manner whatsoever. We do not depict the character driving the car in any way whatsoever, let alone depict him doing anything which may be interpreted as promoting reckless or dangerous driving.

2) The rally footage used in the commercial was obtained from an internationally recognised and

governed motoring event and was clearly depicted as such.

3) Suzuki Australia went to great lengths to ensure that there was no confusion between the rally version of the car, which is a bright yellow version of the car and the red, street version of the car. It was our clear intention to ensure the viewer could not be confused between the two and so would not draw a conclusion between the depiction of driving in the rally footage and the expectation of regular on road driving.

In the view of Suzuki Australia, the TVC merely illustrates that the Suzuki Swift has a heritage in Junior World Rally Championship racing, which has assisted the development of the cars handling, reliability and safety characteristics. Suzuki Australia takes all the relevant steps, including legal advice, when developing television advertising to ensure the advertisements do not encourage illegal or unsafe driving and in this circumstance, do not present an on-road vehicle being driven, let alone in a manner that does not comply with the FCAI 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 “Car 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 then analysed specific sections of the FCAI Code and their application to the advertisement. The Board noted that the advertisement is a television advertisement and that there is footage of a rally car in the advertisement but no images of the domestic vehicle driving. The Board noted that the text in the advertisement of concern to the complainant were the words 'Every drive's a rally drive...' in the context of the radio announcer's references to very bad traffic and driving conditions.

The Board considered that the depictions of the rally car and driving complied with clause 3 of the Car Code as these images were 'clearly identifiable as part of an organised motor sport activity...' and any 'racing or competing vehicles depicted...should be in clearly identifiable racing livery.'

The Board then considered the main part of the advertisement. The advertisement described very bad and dangerous driving conditions for people driving to work that day. The advertisement then announced that it would be difficult driving. The actor however states 'Maybe for some.' - implying that it would not be difficult for him driving his Suzuki Swift. This is then followed by the voiceover stating 'Every drive's a rally drive'.

The Board considered that this advertisement implied that the driver of this vehicle would be undertaking some 'rally' style driving in the poor driving conditions. The Board considered this message irresponsible and suggestive of dangerous driving. The Board therefore considered whether the advertisement breached any of the remaining provisions of the FCAI Code. The Board determined that the advertisement did not breach any of the other clauses of the Car Code as there were no depictions of the car driving.

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

The Board however wished to draw the advertiser's attention to the intention of the FCAI Code. Specifically the Board noted the Explanatory Notes to the FCAI Code which included in part:

'ensure that advertising for motor vehicles does not contradict road safety messages or undermine efforts to achieve improved road safety outcomes in Australia. Advertisers should ensure that advertisements do not depict, encourage or condone dangerous, illegal, aggressive or reckless driving...Advertisers should make every effort to ensure that advertisements not only comply with the formal provisions of the Code but are also consistent with the objectives and guidelines expressed in these Explanatory Notes which accompany the Code.'

The Board considered that this advertisement breached the spirit and intent of the FCAI Code even if it did not breach the substantive provisions of the Code.

ADVERTISER'S RESPONSE TO DETERMINATION

Suzuki Australia takes its corporate responsibilities towards driving safety very seriously and would never want to encourage any person to drive in an unsafe fashion. Although the complaints were dismissed by the board and Suzuki Australia does not believe that the advertisement's message is suggestive of dangerous driving, we will undertake the following action based on the board's notes:

The voiceover stating "Every drive's a rally drive", will be replaced with "The rally winning Suzuki Swift"