



CASE REPORT

1. Complaint reference number	376/06
2. Advertiser	Saab Automobile Australia Pty Ltd (9–3 Linear Sport Sedan)
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, 10 October 2006
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts various people puzzled about mysterious vapour trails seen on the roads. As the camera follows the vapour trail it is seen to be coming from a silver car. A voiceover states “At Saab, before we built cars, we built jets” as text on screen announces “Pilots wanted.” As the car crosses a bridge the voiceover concludes “Saab. Move your mind”.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Ad implies excessive speeds possible as jet streams implies vehicle is capable of reaching jet speeds. Not showing speeding but clearly promoting it.

Clear depiction of speed in car adverts is contrary to good road safety practice.

THE ADVERTISER’S RESPONSE

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

The vehicle that is depicted is not travelling at excessive speed and the vapour trails which follow the vehicle are merely a symbolic reference to Saab’s aircraft heritage.

The fact that the vehicle is creating vapour trails (which cars cannot create), and that the vehicle is travelling through the heart of a city during the middle of the day, with no other vehicles around, also highlight that this advertisement is not depicting a real-world situation and does not portray unsafe driving.

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 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 Saab car, “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 Saab 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 then analysed specific sections of the FCAI Code and their application to the advertisement. The Board identified that clauses 2(a) and 2(b) were relevant in the circumstances.

In order to breach clause 2(a), the driving practices depicted must be:

“obviously unsafe, including reckless and menacing driving to the extent that such practices would breach any Commonwealth law”.

In making its decision, the Board referred to the Explanatory Notes to the FCAI Code. The Board referred in particular to the FCAI’s statement in the Explanatory Notes that:

“The FCAI supports a responsible approach to advertising for motor vehicles. While acknowledging the legitimate use of motor sport, fantasy, humour and self-evident exaggeration in creative ways, the FCAI asks advertisers to be mindful of the importance of road safety and to ensure that advertising for motor vehicles does not contradict or undermine efforts to achieve improved road safety outcomes in Australia.”

The Board concluded that the driving depicted in the advertisement was not unsafe, reckless or menacing.

In relation to clause 2(b) of the FCAI Code, the Board considered whether the driving depicted speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast.

The Board noted the advertiser’s response which said the advertisement was intended to highlight Saab’s heritage in aeronautical engineering (jet building). The Board agreed that the speed of the car depicted was not excessive and that the vapour trails depicted the manufacturer’s association with a jet plane rather than indicating that the car would travel at jet speeds or excessively fast.

On the above basis, the Board held that the material before it did not constitute an advertisement in breach of clause 2(a) or 2(b) of the FCAI Code. The Board therefore dismissed the complaint.

The Board then considered whether the advertisement breached the AANA Code of Ethics (the Code). The Board noted that clause 2.6 of the Code does not apply to advertisements to which the FCAI Code applies. The Board considered that the advertisement did not contravene the Code on any basis.