



## CASE REPORT

1. Complaint reference number	61/06
2. Advertiser	Ford Motor Co Aust Pty Ltd (slot car)
3. Product	Vehicles
4. Type of advertisement	TV
5. Nature of complaint	FCAI - Other
6. Date of determination	Tuesday, 14 March 2006
7. DETERMINATION	Dismissed

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a young boy playing with his slot-car racing set at home. He expresses excitement as first a yellow car, then a red car jump the track at speed and crash. The next car, a blue Falcon, is on the track but despite the boy's attempt to crash the slot car model of the Falcon, it stays on the track. The boy is clearly disappointed. A male voiceover announces: "*The new Ford Falcon is now available with Dynamic Stability Control and Traction Control for incredible road holding. Nothing drives like the new Falcon*".

## THE COMPLAINT

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

*"(The boy)... had great joy when he had (the cars) travelling fast enough that they left the track and rolled a number of times... (The Ford) kept to the road (which) caused his face to register frustration and disappointment."*

*"This is a very unhealthy attitude of a very young lad who gets obvious delight in smashes."*

*"When the third car (a Ford) fails to crash, he throws the control down in disgust."*

*"... sends a very bad message to children and particularly young drivers. To my mind it encourages rough usage of the child's property and pride and satisfaction in creating potentially dangerous incidents."*

*"... in view of the number of young drivers losing control and hitting trees every week, it is so short-sighted and lacking in common-sense as to be almost unbelievable."*

## THE ADVERTISER'S RESPONSE

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

*"DSC is a driver aid that assists in maintaining vehicle stability by impeding vehicle skid. Traction Control limits wheel spin during acceleration."*

*"The research indicated that the commercial was enjoyable to watch, that people could well relate the child playing with the slot-car set to themselves as a child, or to one of their own children."*

*"Deliberate effort was taken to ensure that the television commercial would be viewed as fantasy and creative, self-evident exaggeration. The cars... are obviously toys and no drivers are shown. At all times the cars are travelling on a slot-car track and not on anything that may be misconstrued as a road."*

*“We also do not believe that the motor sport provisions of the Code apply to this TVC given that the child is merely playing with his slot-car set and not racing the toy vehicles.”*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement should be considered under 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 Falcon “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 Ford Falcon 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 clause 2(a) and clause 2(b) were relevant in the circumstances. The Board had to consider whether those clauses of the Code had been breached.

The Board first considered whether clause 2(a) of the Code had been breached.

In order to breach clause 2(a) of the FCAI Code, the advertisement must portray:

*“unsafe driving, including reckless and menacing driving that would breach any Commonwealth law... if such driving were to occur on a road or road related area...”*

The Board considered that it was obvious that the advertisement did not depict real cars on a road but rather it depicted toy cars circulating a slot-car track.

The Board adopted a literal interpretation of the Code and concluded that as only toy cars were shown to circulate a toy track, no “driving” was depicted in the advertisement. As a result, the Board formed the view that clause 2(a) had not been breached.

The Board then considered whether the advertisement breached clause 2(b) of the FCAI Code. In order to breach clause 2(b), the advertisement must portray:

*“people driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast. ”*

The Board also adopted a literal interpretation of this clause. It formed the view that as no people were shown driving a car and also the fact that no driving was portrayed, there was no breach of clause 2(b) of the Code.

On the above basis, the Board held that the material before it did not constitute an advertisement in

breach of the provisions of the FCAI Code.

The Board then considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted that the advertisement plays on the well known delight that young boys take in crashing toy cars. In terms of the message of the advertisement, the Board considered that the advertisement actually emphasises the safety features of the Ford Falcon.

The Board considered that the advertisement did not breach the Code on any grounds and, accordingly, it dismissed the complaint.