

## Case Report

1. Case Number :	0015-24
2. Advertiser :	Polestar
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	30-Jan-2024
6. Decision:	Upheld - Modified or Discontinued

### ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(a) Unsafe driving

### DESCRIPTION OF ADVERTISEMENT

This television advertisement features a vehicle driving on a road along the side of a cliff, which is then overtaken by another vehicle. A voice-over says, "It all started with an idea. And with that idea, it continues."



WLTP Polestar 2: 201-231 kWh/100 km and CO<sub>2</sub> 0 g/km. Preliminary figures. Subject to final certification.  
WLTP Polestar 2: 14.8-17.2 kWh/100 km and CO<sub>2</sub> 0 g/km

Discover at [polestar.com](https://polestar.com)

### THE COMPLAINT

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

*Promoting dangerous driving practices*

## THE ADVERTISER'S RESPONSE

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

*Polestar Automotive Australia Pty Ltd (Polestar) provides the following response to the complaint, having regard to the FCAI Motor Vehicle Advertising Code (FCAI Code) and AANA Code of Ethics (AANA Code).*

*None of the provisions of the AANA Code apply to the advertisement or the complaint, so this response focusses on section 2 of the FCAI Code.*

*The purpose of this advertisement was to showcase the evolution of the Polestar series from the Polestar 2 to the new Polestar 3. This is depicted in a stylistic way by showing the new model Polestar 3 approach the original Polestar 2 and move alongside it. This is reinforced by the voiceover which says "It all started with an idea, and with that idea, it continues".*

*Polestar believes that the advertisement does not breach section 2 of the FCAI Code because it does not portray unsafe driving or driving practices which would breach a law.*

*The vehicles in the advertisement were filmed on a closed road with professional drivers, there were no other vehicles on the road at the time, and in all shots where either vehicle is visible no other vehicles are shown on the road. There is no unbroken / solid line on the road that would prohibit overtaking. If this was not already on a closed road, this vehicle would not be breaking a law by moving lanes.*

*The tempo of the advertisement is kept low and calm with the use of slow-paced VO and background music. The cars are shown driving at a slow even speed. There are no sudden moves by either driver.*

*The complaint states that "overtaking on blind corners is illegal in Australia". The advertisement does not show any overtaking on a blind corner. There is a short period in the advertisement (00:09-00:13 seconds) where it is not possible to see the road ahead because the shots are close-up, but at 13 seconds, it is revealed that there is a long stretch of open road ahead with ample room for the Polestar 3 to complete the overtaking manoeuvre safely.*

*While Polestar believes that the advertisement complies with the FCAI Code, this advertisement ceased airing on 10/01/2024 on all platforms and Polestar has no plans to continue using it on any of its platforms.*

## THE DECISION

The Ad Standards Community Panel (Panel) was required to determine whether the material before it was in breach of the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (the FCAI Code).

The Panel noted the complainant's concerns that the advertisement promoted unsafe driving.

The Panel viewed the advertisement and noted the advertiser's response.

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 Panel considered whether the 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 Panel determined that the Polestar vehicle depicted was a Motor Vehicle as defined in the FCAI Code.

The Panel determined that the material before it was an advertisement for a motor vehicle and therefore that the FCAI Code applied.

The Panel then analysed specific sections of the FCAI Code and their application to the advertisement.

**Clause 2(a) - 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 Panel noted the complainants' concerns that the advertisement showed a vehicle overtaking near a blind corner and that the behaviour was illegal and unsafe.

The Panel noted the advertiser's response that the vehicles were on a closed road, and the broken lines indicate that there is a straight stretch appropriate for overtaking.

The Panel considered whether there was a possibility that the advertiser sought to depict the road as being two lanes travelling in the same direction rather than a two-way single carriageway with the possibility of oncoming traffic. The Panel noted that no separate road for oncoming traffic was visible, and that the geography depicted in

the advertisement was strongly indicative of a two-way single carriageway where there could be oncoming traffic.

The Panel noted that there is a short stretch of straight road shown in the advertisement where it may be safe for a vehicle to overtake. However, the Panel considered that the overtaking vehicle is not shown to indicate, and then travels next to the other vehicle at what appears to be a slow speed for some time.

The Panel considered the impression of the advertisement is not that the vehicle is overtaking, but that it is driving next to the other vehicle. The Panel noted that the intention of the advertiser was likely to have the vehicles side-by-side for comparison, however doing so on a road which appears to be two-way is not a depiction of safe driving.

The Panel also considered that the apparently slow speed at which the vehicle overtakes makes it appear as though it would take longer to overtake than the straight stretch of road would allow, and the vehicle would be in danger of being on the wrong side of the road as it approached a blind corner.

The Panel noted that the advertisement was filmed in controlled conditions, however considered that the impression of the advertisement is of two vehicles driving on a normal road.

The Panel considered that the combination of the vehicle not indicating, overtaking the other vehicle at a speed which would appear dangerous, and the approaching corner combined to create the impression of unsafe driving which would breach Australian road rules.

### **Clause 2(a) conclusion**

The Panel considered that the advertisement did breach Clause 2(a) of the FCAI Code.

### **Conclusion**

Finding that the advertisement did breach Clause 2(a) of the FCAI Code, the Panel upheld the complaint.

### **THE ADVERTISER'S RESPONSE TO DECISION**

The purpose of this advertisement was to showcase the evolution of the Polestar series from the Polestar 2 to the new Polestar 3. This is depicted in a stylistic way by showing the new model Polestar 3 approach the original Polestar 2 and move alongside it. This is reinforced by the voiceover which says "It all started with an idea, and with that idea, it continues". The vehicles in the advertisement were filmed on a

closed road with professional drivers and there were no other vehicles on the road at the time. It was never Polestar's intention to portray unsafe driving.

Polestar respects the decision by Ad Standards and has agreed to discontinue the advertisement. It ceased airing on 10/01/2024 on all platforms and Polestar has no plans to continue using it on any of its platforms.