

Case Report

1. Case Number :	0019-25
2. Advertiser :	Kia Australia
3. Product :	Vehicle
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	5-Feb-2025
6. Decision:	Upheld – Modified or Discontinued

ISSUES RAISED

FCAI Motor Vehicle Advertising Code\2(c) Driving practices
AANA Code of Ethics\2.0 Other
AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.3 Violence

DESCRIPTION OF ADVERTISEMENT

There are five versions of this television advertisement featuring Kia all-electric range of vehicles.

Version 1 (30 seconds) features a woman saying "Hey I'm off to the shops."
The woman drives out of the garage in a Kia vehicle and turns into a street. Zombies are walking everywhere in the street. The car pulls up and the woman gets out and says to another man in a Kia vehicle "Doing the Sunday shop Greg?"
The man says "You know it."
Another woman appears with a shopping bag and steps on a squeaky toy and the zombies all turn around to look.
The text "Kia's all-electric range, shhh....its Zombie proof" is featured on the screen.

Version 2 (60 seconds) features a woman saying "Hey I'm off to the shops."
The woman drives out of the garage in a Kia vehicle and turns into a street. Zombies are walking everywhere in the street. You see a zombie mowing the lawn and one woman bent over backwards. A train passes by pushing a broken boat along the track. The car drives slowly through the zombie's and pulls up at the shops. The woman gets out and says to another man in a Kia vehicle "Doing the Sunday shop Greg?"
The man says "You know it."
Another woman appears with a shopping bag and steps on a squeaky toy and the zombies all turn around to look.
The text "Kia's all-electric range, shhh....its Zombie proof" is featured on the screen.

Version 3 (90 seconds) is the same as version 2 with extra scenes of zombies in different positions through the streets.

Version 4 (30 seconds) features two men on a couch. One man looks in an esky and says "We're out."

The other man says "Your turn."

The first man says "Alright." He drives a Kia vehicle through a street with zombies everywhere. He parks at the shops and a woman says "Doing the Sunday shop Greg?"

The man says "You know it."

He gets back in the Kia vehicle and drives home through the zombies.

Version 5 (30 seconds) features a woman leaving the shop with a grocery bag. There are zombies around her car. She pulls the key from her pocket and presses a button on the remote. The driverless car starts to turn and reverses into a clear space. The woman then walks and gets into the car. A voice-over says "Kia, movement that inspires."



THE COMPLAINT

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

The Zombie ad is completely inappropriate. It would be frightening for young children and is in extremely poor taste.

Ad was shown at 5:40pm during the Australian Open. Ad has zombies in it, which scared my child.

Kia is representing a group of people as zombie.

I find this offensive to human nature. No group of people should be branded or represented as such.

The advertisement about KIA. I found that the ad states "Zombie Free" or similar. It shows Victorian train and at a level crossing. It shows ridiculous people in crowds and groups. it is quite disgusting in my opinion. My belief is that this advertisement portrays the people of Melbourne as 'ZOMBIES"

I am offended about the portrayal of people as zombies in the recent Kia EV ad. As this was broadcast during the tennis, it would be frightening to children, it would also upset people who have escaped from a war zone.

It has a horror theme, a zombie apocalypse. Zombies are dead people with the intent of committing violence or murder.

Zombie movies typically have an adults-only classification and are not suitable for children, however this ad is prime-time during the tennis.

I never watch zombie movies/content or horror genres, and feel offended that this type of advertisement is broadcast into my lounge room.

It is also inappropriate to broadcast apocalypse-type adverts to an audience that has survived extreme natural disasters, and with the current deadly fires in LA, this is particularly distasteful.

The advertisement is one of a series with a zombie theme. That is peculiar and confusing. However the reason for my complaint is the fact that the campaign occurs at the same time as the devastating Californian fires and has scenes which resemble a city destroyed by fire. When I first saw the advertisement it seemed that it was mocking the Los Angeles fires.

It puts down sick and handicap people makes a mockery of those people

The actions shown could encourage drivers to operate a vehicle whilst unable to ensure bystanders aren't at risk of injury or death

The tv advertisement is disgusting. It shows a vehicle by KIA, female driver happily talking to another person then two males, one same male who was talking at home with male friend indifferent to what had occurred. It first shows with buildings with greenery as on futuristic with greetings of urban spaces environmentlly friendly and people referred to by KIA as KIA vehicle and drivers being 'Zombie Proof' as surrounded by people referred to as Zombies dressed in rags and looking tortured just as cost of living crisis and people no longer able to afford housing as unaffordable and/or inaccessible in reality. It's offering a distorted a reputable reality as at current mocking persons who no longer or do not have access to housing and food security faced by millions of people in Australia on top.of Climate Change Extreme Events frequencies and recovery efforts. It's celebrating in disguise zombies people who are traumatised and as though somehow owning a KIA vehicle will protect one from these realities. It's clear and obvious how offensive this KIA advertisement is.

Have the audacity to show paramedics/ambulances in real life as not valued nor respected and other service workers at roadsides in orange neon vests as Zombies and showcasing people as traumatised with realities staved of food security to survive, stay alive, have health all ages. No Home Security. Real Life Disaster Events also Real impacted as with Weather Extreme Events, lack of support is minimal and donation required in highest financial stress impacting all across the Nation and on top of it this traumatizing is glorified for KIA drivers as a norm and somehow immune from this.

THE ADVERTISER'S RESPONSE

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

We refer to your letters of 14 January 2025 concerning complaints received by Ad Standards in respect of Kia Australia's (Kia) "Zombie Proof" television advertisement (Advertisement).

Kia prides itself on taking its compliance with the AANA Code of Ethics (Code) seriously and appreciates the opportunity to clarify its position on the Advertisement with Ad Standards in light of the complaints.

The complainants allege that the Advertisement raises issues under the following subsections of section 2 of the Code:

- 1. AANA Code of Ethics\2.3 Violence\Causes alarm and distress to children.*
- 2. AANA Code of Ethics \2.3 Violence\Causes alarm and distress; and*
- 3. AANA Code of Ethics \2.0 Other\Other – miscellaneous.*

For the reasons set out below, Kia maintains that the Advertisement does not breach section 2 (or any other section) of the Code.

Background to the Advertisement:

The Advertisement was created to promote the Kia EV9 and EV5 vehicle models, both of which are part of Kia's new Electric Vehicle (EV) range.

Intended to target EV intenders aged 28 years +, the Advertisement is a "range" Advertisement, illustrating the aesthetics of Kia's new EV range and its key selling features.

Kia's marketing campaigns are typically light-hearted and fantastical, mixed with relatable Australian humour aimed at reaching Kia's target audience while also being memorable. The Advertisement is in line with this strategy, and the use of zombies is intended to comically answer the question of why Kia EVs would be best suited during a fanciful zombie apocalypse in Australia's suburbs.

In this campaign, the audience observes a number of Kia EV owners as they go about their daily lives, unnoticed, sharing their world with a number of comical and

unthreatening zombie characters. Throughout the campaign it is revealed that the reason the Kia EV owners go unnoticed by the zombies is primarily due to the quietness of their Kia EVs, but also due to the specific features found in the Kia EVs that make them “Zombie Proof”.

The intent of the Advertisement is to creatively and light-heartedly demonstrate the quietness, long driving range and superior driving dynamics of Kia’s EV range via the well-known tropes of the zombie genre.

The complaints

- 1. AANA Code of Ethics\2.3 Violence\Causes alarm and distress to children*
- 2. AANA Code of Ethics \2.3 Violence\Causes alarm and distress*

Kia maintains that the Advertisement does not depict conduct that would cause alarm or distress (to children or adults) and accordingly rejects any assertion that the Advertisement is in contravention of section 2.3 of the Code. Kia takes its compliance with the Code and Children’s Code very seriously and understands community concerns around the glorification of violence. Throughout the creation of the ‘Zombie Proof’ campaign, Kia carefully followed the Code, particularly section 2 regarding the self-regulatory rules around portrayal of people and violence.

The intent of the Advertisement is to creatively and light-heartedly demonstrate the quietness of Kia’s EVs via the well-known tropes of the zombie genre. The overarching tone of the advertisement is one of humour – the zombie characters are portrayed as a mere inconvenience and annoyance in the lives of Kia EV owners. This is seen in the expression of the protagonist of the opening scene of the “EV Range” advertisement.

The advertisement was intentionally set in the middle of the day during a bright, Australian summer (as opposed to at night, in a dark setting). This is exhibited in the time of day shot, the grade of the film and the choice of music track, which adds to the light-hearted, positive atmosphere via its upbeat tempo. As a result, there is a very low level of tension throughout the campaign advertisements.

The Zombie characters and the world they reside in is fantasy and highly stylised. The zombies themselves are depicted in a manner that is not highly graphic or gory, and their movements are slow and not aggressive. As seen in the “EV Range” advertisement, the first zombie is introduced to the scene in a non-threatening and gradual manner as the garage door slowly opens. Zombies throughout the campaign do not appear to be in pain or distressed. Instead, they are depicted doing humorous, relatable jobs and tasks i.e. mowing the lawn, delivering a pizza etc.

Furthermore, close up shots of zombies were digitally altered to remove features that could be perceived as violent or projecting a sense of menace. Only mild abrasions were shown and were supplemented by humorous accessories like a t-shirt with the

slogan “I woke up like this” and a takeaway coffee cup to complete the ‘Sporty zombie’ character. The creative approach of the ad was to depict the zombie characters as fantastical and humorous, deliberately avoiding any sense of violence or strong menace.

The campaign received a P classification on all material from Clear Ads. Throughout the campaign creation, Kia carefully considered the Code and the AANA’s Children’s Advertising Code (Children’s Code), as well as assessing many previous decisions of the Ad Standards Community Panel involving the zombie genre in Australian TV advertisements. Kia’s Creative agency and Media Buying agency liaised with Clear Ads in respect of what classification Kia should expect for the Advertisement from the early script stage. This involved sharing the Advertisement’s storyboards, performance tests, makeup tests and offline visuals for pre-checks with Clear Ads. The guide was PG, subject to being compliant with the Code of Practice, particularly in the context of violence.

Following this research and guide, Kia were meticulous in ensuring that no imagery or scenes in the Advertisement gave the impression that a character had just committed violence against someone (there is no blood), was the victim of violence (there are no missing limbs or obvious injuries) or is about to commit violence against someone (there are no weapons). Specifically, at no time does the campaign depict any person injured or in pain or danger, and no action from any character depicts any form of aggression. There are no images of weapons or firearms, no depictions of blood or gore and no instances of threatening language or screaming.

The hero characters in the Advertisement do not appear frightened (Milly sings along to music as she drives and makes conversation with other Kia EV drivers) and are not depicted as being at risk of violence (there are no lunging or other movements made by the zombies towards the protagonists). When a lead character steps on a squeaky toy (nearing the end of the “EV Range” advertisement), the zombie characters turn on the spot to acknowledge the squeaky noise of the toy – exactly how any person would react in real life to such a noise – and the lead character’s reaction is one of frustration and annoyance (not of fear).

At no point in the advertisement do the zombie characters approach the lead characters, grab at them, gesture towards them, make any strong menace or threat or perform any acts of violence, nor is there any violence depicted at any point in the Advertisement.

The Advertisement was not made for, or targeted towards, children. The advertised product is an electric vehicle, which are not usually or intended to be principally or significantly appealing to children. The expected average audience at the time or place the Advertisement appears does not include a significant proportion of children.

The median age of viewers of the Australian Open (which constitutes the majority of TV media booked for the Advertisement) is 59yrs, and only 5% of viewers are under 12yrs of age. The below table provides a more detailed breakdown of the age range of views of the Australian Open and Big Bash Cricket:

AO

(P 0-12) 5%
(P 13-24) 5%
(P 25-54) 40%
(P 55-64) 17%
(P 65+) 33%

Big Bash

(P 0-12) 4%
(P 13-24) 4%
(P 25-54) 37%
(P 55-64) 17%
(P 65+) 38%

**Age bracket % for viewers, OzTAM - January 2024 Australian Open & Big Bash*

3. AANA Code of Ethics \2.0 Other\Other – miscellaneous

Kia also rejects any assertion that the Advertisement breaches section 2.0 of the Code.

2.1 - Discrimination or vilification

The Advertisement does not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual orientation, religion, disability, mental illness or political belief. As to the complaint that the zombie characters depicted in the Advertisements represent Melbournians specifically – Kia strongly disputes this allegation. The zombie characters are entirely fictional and do not represent any person or section of the community.

2.6 - Health and Safety

The Advertisement does not condone unhealthy or unsafe behaviour that meets the threshold of contravening prevailing community standards. As to the complaint that the zombie characters represent drug affected people – Kia strongly disputes this allegation. The zombie genre is a well-known genre in TV, cinema and entertainment around the world. The well-established look of a 'zombie' includes make-up, prosthetics, wardrobe and specific body movements. There is nothing implied or suggested regarding drug related issues within the Advertisement.

FCAI Motor Vehicle Code

Kia rejects any assertion that the Advertisement depicts, encourages or condones dangerous, illegal, aggressive or reckless driving. All driving scenes in the Advertisement depict safe, standard driving practices. The Advertisement does not contradict road safety messages or undermine efforts to achieve improved road safety outcomes in Australia.

For the reasons set out in this response, having considered the Advertisements and the complaints, as well as the requirements of the Code and Children's Code, Kia respectfully submits that the Advertisement complies with all relevant regulations and standards.

Additional advertiser response

Vilification (2.1)

With regards to the complaint about the Advertisements making a mockery of the disabled and mentally ill – Kia strongly disputes this allegation. The characters are clearly zombies. From a production level, the wardrobe, make-up, prosthetics and the use of movement coaches have been utilised so that the actors reflect the well-known zombie genre which have very specific and expected visuals.

From a creative storyline point of view, the newspaper clippings on the fridge in the opening scene with headlines "Zombie survival tip, stock up and secure" and "Neighbours unite to fight zombie crisis", the LED construction sign showing "Zombie Hoard, Expect Delays", sign on the fence warning "Don't feed the zombies" and the campaign tagline "it's zombie proof" undisputedly make viewers aware that the characters in the Advertisement are indeed zombies. They in no way reflect or mock disabled or mentally ill people.

FCAI Motor Vehicle Code

With regards to the complaint about Kia EV9's Remote Smart Parking Assist (RSPA) feature, Kia rejects any assertion that the Advertisement depicts, encourages or condones dangerous, illegal, aggressive or reckless driving under the FCAI Motor Vehicle Advertising Code 2c.

The Advertisement is set in a fantastical, zombie apocalyptic world, following a number of Kia EV owners as they go about their daily lives, unnoticed, sharing their world with a number of comical and unthreatening zombie characters who are attracted to, and congregate around noise. The zombies are depicted as annoyances and obstructions rather than a threat to the Kia EV Owners.

In the Advertisement the Kia EV9's RSPA feature is advertised for its intended purpose in the fantastical carpark world where zombies are seen as obstructive and annoyances. This scene is a depiction of RSPA's real world intended purpose, where an EV9 owner would find it hard to get into the vehicle due to obstacles in close proximity.

At no point in this scene are there risks of injury or death. RSPA only works when the button is pressed by operator on the vehicles' Smart Key Fob (within 4m from the vehicle). RSPA uses 12 ultrasonic sensors and 4 wide angled to detect parking spaces and control vehicle steering, speed, and helps owners exit tight situations (forwards and backwards only) remotely from outside your vehicle.

When in use, the vehicle will not move backward if it senses a collision. If an obstacle is deemed too close to the vehicle, a 3rd stage warning (continuous beep) would sound. At this time, the RSPA feature will temporarily stop moving.

In this scene, the protagonist, with the help of the RSPA feature is in full control of the EV9. The protagonist reverses the vehicle in a short distance, she deems appropriate and safe. Most importantly, the protagonist operates RSPA where there are no obstacles, characters or objects in the vehicles intended pathway. The pathway of the vehicles course is clear. There are no risks of injury or death.

Furthermore, all driving scenes in the Advertisement depict safe, standard driving practices. The Advertisement does not contradict road safety messages or undermine efforts to achieve improved road safety outcomes in Australia.

For the reasons set out in this response, having considered the Advertisements and the complaints, as well as the requirements of the Code and Children's Code, Kia respectfully submits that the Advertisement complies with all relevant regulations and standards

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether the versions collectively forming this advertisement breach Section 2 of the AANA Code of Ethics (the Code) and the Federal Chamber of Automotive Industries Voluntary Code of Practice for Motor Vehicle Advertising (the FCAI Code).

The Panel noted the complainants' concerns that the advertisement:

- discriminates against people with disability
- condones driving practices that would break the law
- is too frightening for the broad audience which include children
- contains horror imagery inappropriate to advertise a car

- depicts scenes reminiscent of bushfires or war zones
- suggests that people from Melbourne are zombies
- suggests that paramedics and road workers are not worthy of respect
- suggests that people who don't have access to housing are zombies
- is generally offensive to human nature through the depiction of zombies.

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

FCAI Code

The Panel considered whether the advertisement was for a motor vehicle. Motor vehicle is defined in the FCAI Code as: "passenger vehicle; motorcycle; light commercial vehicle and off-road vehicle". The Panel determined that Kia vehicles depicted are Motor Vehicles as defined in the FCAI Code and therefore the FCAI Code applied.

Clause 2(c) - Advertisements for motor vehicles do not portray driving practices or other actions which would if they were to take place on a road or road-related area, breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation. (examples: illegal use of hand-held mobile phones or not wearing seat belts in a moving motor vehicle)].

The Panel noted the complainant's concern that Version 5 of the advertisement depicted a vehicle operating without being under the control of a driver, and that this was unsafe.

The Panel noted the advertiser's response that the advertisement depicts the use of the Remote Smart Parking Assist feature, which is not unsafe and does not pose a risk for pedestrians.

The Panel considered that the Australian Road Rules require a driver of a vehicle to have proper control of that vehicle (https://classic.austlii.edu.au/au/legis/sa/consol_reg/arr210/s297.html).

The Panel noted that automated vehicle technologies, where a vehicle performs driving tasks without a human driver, are not currently permitted for general use in Australia. Therefore, the Panel concluded that using the smart parking assist feature without a driver in control of the vehicle would likely breach Australian road rules. The Panel acknowledged that the advertisement was set in a post-apocalyptic future and was not intended to display realistic driving practices. However, the Panel considered that the advertisement is promoting a feature in a vehicle that would be against current road rules in most circumstances.

The Panel concluded that the advertisement depicted driving practices which would if they were to take place on a road or road-related area, breach **Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast directly dealing with road safety or traffic regulation.**

Clause 2 (c) conclusion

The Panel found that version 5 of the advertisement did breach clause 2(c) of the FCAI Code.

Code of Ethics Section 2.1: Advertising shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual orientation, religion, disability, mental illness or political belief.

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

- *Discrimination – unfair or less favourable treatment.*
- *Vilification – humiliates, intimidates, incites hatred, contempt or ridicule.*
- *Disability – a current, past or potential physical, intellectual, psychiatric, or sensory illness, disease, disorder, malfunction, malformation, disfigurement or impairment, including mental illness*

The Panel noted the Practice Note to Section 2.1 states:

Advertising which shows members of a certain group as ridiculous, unintelligible or unable to recognise a dangerous situation incites ridicule towards their behaviour.

A realistic depiction of people with a disability can be acceptable, even if the advertisement may be upsetting to some members of the community, where there is an important message being delivered.

The Panel considered that the zombies in the advertisement did not represent people with disabilities or mental illness. The Panel considered that the interpretation that the advertisement was mocking towards people with a disability was unlikely to be shared by most members of the community.

Section 2.1 conclusion

The Panel found that the advertisement did not breach Section 2.1 of the Code.

Code of Ethics Section 2.3: Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

Does the advertisement contain violence?

The Panel noted the complainants' concern that the advertisement contained horror themes and violent imagery which are inappropriate to advertise a vehicle and which would be frightening and distressing to younger viewers.

The Panel considered that zombies are mythological creatures, widely recognised through their portrayals in popular culture such as horror and comedy movies, Halloween decorations, as well as in children's popular culture. The Panel noted that there are zombie dolls, zombie cartoon characters, and zombie Disney movies which are all targeted towards children.

The Panel considered that the depiction of zombies may be frightening to some viewers, however the depiction of zombies was not violent in itself. The Panel considered that in all versions of the advertisement the zombies were depicted performing everyday tasks such as mowing the lawn and were not attacking or threatening the humans.

The Panel considered that the advertisement does not depict or suggest violence.

Section 2.3 conclusion

The Panel concluded that the advertisement did not present or portray violence and did not breach Section 2.3 of the Code.

Concerns not under the Code

War and natural disasters

The Panel noted the complainants' concerns that the advertisement depicts scenes reminiscent of bushfires or war zones which mocks these serious events.

The Panel acknowledged that while scenes of devastation may be triggering to some people, they considered that the scenes in the advertisement were clearly fantastical and did not depict any real-world event.

Zombies representing a particular group of people

The Panel noted the complainants' concerns that the advertisement:

- suggests that people from Melbourne are zombies
- suggests that paramedics and road workers are not worthy of respect
- suggests that people who don't have access to housing are zombies

- is generally offensive to human nature through the depiction of zombies.

The Panel considered that the advertisement can be interpreted by individuals in many ways. The Panel considered that the most likely interpretation of the advertisement is of a fantastical zombie-apocalypse situation similar to well-known movie tropes. The Panel considered that the general community is unlikely to interpret the zombies in the advertisement as representing any particular group of people.

The Panel noted that the above complainant concerns do not raise an issue under the Code.

Conclusion

Finding that Version 5 of the advertisement breached Clause 2 (c) of the FCAI Code the Panel upheld the complaints.

THE ADVERTISER'S RESPONSE TO DECISION

We refer to your draft Case Report in case [0019-25] dated 5 February 2025 and your letter dated 17 February 2025 regarding same.

Kia Australia (KAU) has reviewed these materials and determined that it will make modifications to Version 5 (as defined in the draft Case Report) of the Advertisement. Specifically, KAU proposes to insert the following disclaimer at the bottom of the screen in Version 5:

“Use of the Remote Smart Parking Assist feature is not permitted in Western Australia. When using RSPA, drivers must maintain full control of the vehicle and keep all surroundings in sight.”

KAU considers this to be appropriate in addressing the Community Panel's decision.

As identified in the draft Case Report, Version 5 of the Advertisement depicts a woman utilising the Remote Smart Parking Assist 2 (RSPA2) feature in her Kia vehicle. KAU disputes that this scene depicts a vehicle being operated without being under the proper control of a driver (and accordingly that it depicts a breach of the Australian Road Rules, in breach of clause 2(c) of the FCAI Code). When a driver utilises the RSPA2 feature in their Kia vehicle, they remain in control of the vehicle at all times. Specifically:

1. The feature can only be activated by the driver, upon pressing the applicable RSPA2 buttons within the vehicle or on the vehicle's key fob (within 4 metres from vehicle).

2. If at any time the driver wants the RSPA2 process to stop, the driver simply has to stop pressing the applicable RSPA2 button. The feature will then halt immediately.

There are a large range of vehicles (Kia and non-Kia) that are commercially sold in the Australian market and offer similar park-assist features. These include Audi, BMW, Ford, Genesis, GWM, Hyundai, Jaguar, Jeep, Lexus, Mercedes-Benz, Nissan, Peugeot, Renault, Skoda, Telsa, Toyota, Volkswagen and Volvo.

The Kia RSPA2 feature offers driving assistance; it does not make the vehicle 'automated' by itself. When these parking assistance applications are engaged, there must be a human driver supervising the parking function, even if this is done remotely using a hand-held control.

KAU maintains that drivers remain in proper control of their vehicles when utilising the RSPA2 feature, and accordingly such use is permitted under the Australian Road Rules.


As per the Australian Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts:

Many vehicles on Australian roads currently have some degree of automation through Advanced Driver Assistance Systems (ADAS) features such as lane keep assist, adaptive cruise control, and park-assist. However, these features are intended to support the driver, require constant human oversight, and do not make the vehicle 'automated' by themselves. When ADAS features are engaged, the driver maintains responsibility for the driving task and must intervene if required to maintain safety.

<https://www.infrastructure.gov.au/infrastructure-transport-vehicles/transport-strategy-policy/office-future-transport-technology/automated-vehicles>

Separately to the above, KAU notes that the road rules in-force in Western Australia differ to those in operation in the balance of Australian state and territory jurisdictions. While other state regulations require drivers to be "in control" of their vehicle while driving (in accordance with the Australian Road Rules), the Road Traffic Code 2000 (WA) requires drivers to also be "behind the steering wheel" (see section 263(1) of the Road Traffic Code 2000 (WA)).

KAU accepts that, pursuant to these regulations, use of the RSPA2 feature in Western Australia by a driver who is not behind the steering wheel of the vehicle is not permitted. It is on this basis that KAU has included a disclaimer to this effect in previous advertisements for the feature. For example:



Overseas model shown

Remote Smart Parking Assist 2^[W] helps remotely park or exit a parking spot. It searches for parking spaces and automatically assists with steering, accelerating and decelerating using the vehicle's sensors.

Inside the vehicle, you can use the Parking View button to search for parking spaces and select the parking type. Once exiting the vehicle, you can activate the parking feature using the smart key from outside.

Available on GT-Line grade.

Convenience

Everything in its place.

- Remote Smart Parking Assist 2^[W]
- Cooled & heated rear storage
- Rear seat table
- Height adjustable Smart Power Tailgate
- Wireless Qi charger

[W]The Road Traffic Code 2000 in WA prohibits people from driving a vehicle unless a person is behind the steering wheel and they have full control over the vehicle. The use of this Remote Smart Park Assist (RSPA) feature will not comply with this rule and thus it should not be used while within WA.

Noting the matters set out above, KAU accepts that it is appropriate for Version 5 of the Advertisement to be modified to include a disclaimer reflecting the regulatory requirements in Western Australia.

KAU otherwise disputes this section of the Community Panel's decision (namely that the advertisement breaches clause 2(c) of the FCAI Code) and intends to appeal the Community Panel's decision. We look forward to receiving further information from the Panel as to next steps in relation to this.