

Decision of the ADVERTISING REGULATORY BOARD

Complainants	Kenneth Steyn Judith Brigg
Advertiser	Volkswagen of South Africa (Pty) Ltd
Consumer/Competitor	Consumer
File reference	523 - VW - Kenneth Steyn & another
Outcome	Dismissed
Date	15 November 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider complaints lodged by Kenneth Steyn and Judith Brigg against Volkswagen's television commercial promoting its new "T-Cross" vehicle.

Description of the advertising

The commercial features a couple (Thando and Sindi) being pursued relentlessly by family members wanting to know when they plan on getting married, and insisting that they want grandchildren. In their attempts to escape these questions, the couple are shown rushing around town in their VW T-Cross with family members in tow, chasing behind the couple in other vehicles and a helicopter.

At the time of drafting this decision, a copy of the commercial was available on YouTube at <https://www.youtube.com/watch?v=R6FQFhExn-Q>.

Complaints

Both complainants took issue with what they perceived to be reckless and dangerous driving. Mr Steyn submitted, *inter alia*, that the couple was “... racing wrecklessly away from authorities ...” and that the commercial depicted “... Bad and wreckless driving, running from authorities ... “[sic].

Ms Brigg argued that the commercial encouraged “... fast & dangerous driving ...”, and took issue with the claim “Play by your rules”.

Both complainants submitted that the commercial set a bad example for South African drivers and should be removed.

Response

The Advertiser submitted that was not a member of the ARB, but that it wished to respond to these complaints without waiving any of its rights. It expressed dismay at the complaints, noting that the commercial was estimated to have been seen by more than 6 million people, and that these were the only two complaints received.

It explained that the phrase “Play by your rules” was a reference to living life to one’s own satisfaction. The couple in the commercial were clearly playing by their own rules, and in doing so, refused to conform to societal pressures such as “settling down” and having children. This was apparent from the storyline, and was emphasised by news flash “Breaking News: Couple Making Own Decisions” which appears at approximately 27 seconds.

No reckless driving is shown, no authority figures are present or disobeyed, and no traffic laws are disregarded. When considering the tag line in conjunction with the hyperbolic execution and sequence of events, the intention of the commercial becomes clear, and no reasonable person would interpret this commercial as an invitation to disobey rules of the road or any other applicable legislation.

Application of the Code of Advertising Practice

The following clauses were considered in this matter:

Legality – Clause 3.3 of Section II

Safety – Clause 13 of Section II

Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

Jurisdiction

The Advertiser submitted that it was not a member of the ARB, and that its rights remained reserved despite having submitted a response to the complaints.

The Memorandum of Incorporation of the ARB states:

“3.3 The Company has no jurisdiction over any person or entity who is not a member and may not, in the absence of a submission to its jurisdiction, require non-members to participate in its processes, issue any instruction, order or ruling against the non-member or sanction it. However, the Company may consider and issue a ruling to its members (which is not binding on non-members) regarding any advertisement regardless of by whom it is published to determine, on behalf of its members, whether its members should accept any advertisement before it is published or should withdraw any advertisement if it has been published.”

In other words, if you are not a member and do not submit to the jurisdiction of the ARB, the ARB will consider and rule on your advertising for the guidance of our members.

The ARB will, however, rule on whatever is before it when making a decision for the guidance of its members. This ruling will be binding only on ARB members and on broadcasters in terms of the Electronic Communications Act.

The ARB will therefore proceed to consider this matter for the guidance of its members.

Merits

Clause 3.3 of Section II reads as follows:

“Advertisements should not contain anything which might lead or lend support to criminal or illegal activities, nor should they appear to condone such activities”.

Clause 13 of Section II reads:

“Advertisements should not without reason, justifiable on educational or social grounds, contain any visual presentation or any description of dangerous practices

or of situations which show a disregard for safety. Special care should be taken in advertisements directed towards or depicting children or young people”.

It cannot be denied that South Africa has a particularly poor road safety history, as thousands of drivers, passengers and pedestrians are killed annually on our roads. It would therefore be irresponsible to permit advertising where reckless and potentially illegal activities are condoned or encouraged. Having said this, the Directorate needs to correct certain misconceptions in the complaints.

Firstly, Mr Steyn is incorrect in alleging that the couple is trying to speed away from authorities. As noted by the Advertiser, no traffic or other law authorities are present in the commercial. In fact, the young couple (Thando and Sindi) appear to be chased by relatives who are going to extreme lengths to enquire when they plan on getting married and having children. While true that these family members are shown behind a barricade, chasing them on the highway, and even flying a helicopter (as one would typically see in action movies), it is immediately apparent that these are not legitimate authorities.

Secondly, the couple are not used to encourage speeding and reckless driving, and are not presented as an example of rogue drivers throwing caution to the wind just so they can “Play by their own rules”. The commercial positions them as a loving couple, enjoying a quiet cup of coffee when their families arrive with intrusive and aggressive questioning over a megaphone behind a self-styled barricade.

During their attempts to evade this invasion of privacy, they are pursued by a grandmother in a helicopter, and Sindi’s parents and younger sister in another vehicle, with Sindi’s mother shouting from an open window that she wants grandchildren. When they eventually seek refuge in a dark corner, the grandmother, piloting her helicopter, spots them and smirks “Game over”.

While the couple are shown taking drastic evasive action, they do not appear to be driving extraordinarily fast or recklessly, and there is no suggestion that any of the rules of the road are being disobeyed. They are shown wearing their seatbelts, and remain in their lane at all times despite their growing frustration.

The payoff “Play by your rules” appears towards the end of the commercial, reinforcing the notion that this couple refuses to succumb to conventional family pressure to get married and have children merely because it is expected. It is not, as the complainants

appear to believe, a suggestion to flout the rules of the road and attempt to evade the consequences of doing so.

In addition, the overall feel of the commercial is that of a spoof of an action movie, and not a serious suggestion that the depicted driving and chase is something that should or would actually occur. It is clearly a hyperbolic execution, and no reasonable driver (irrespective of their age) would interpret this as an invitation to disregard road safety requirements. Furthermore, licensed drivers would be aware of the relevant road rules and applicable laws, and are unlikely to flout such rules and regulations as a consequence of seeing this commercial.

In the circumstances, the Directorate finds that the commercial does not depict, condone or encourage a disregard for safety, and does not depict, encourage or condone illegal activities.

The commercial is therefore found not to have contravened the provisions of Clauses 3.3 and 13 of Section II of the Code.