



Case Report

1	Case Number	0032/11
2	Advertiser	Mistletoe Enterprises
3	Product	Entertainment
4	Type of Advertisement / media	Poster
5	Date of Determination	09/02/2011
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

2.5 - Language Use appropriate language

DESCRIPTION OF THE ADVERTISEMENT

An A2 size colour poster to promote the Melbourne concert by acclaimed Canadian electronic/art-rock band Holy Fuck at The Hi-Fi on Thursday, 3 February 2011. The band's name is in coloured bold capitals and takes up almost half of the poster.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

Using the F-word blatantly and at the readable eye height of children is not in the interests of children's development and personal growth. In addition it is not conducive to children's appropriate use and understanding of language.

I request that you remove these posters from the eye height of children and use other mechanisms to advertise your events that will not expose children to swearing and unnecessary language that causes them confusion about when and how to use language.

THE ADVERTISER'S RESPONSE

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

Mistletoe is the Australian promoter for acclaimed Canadian electronic/art-rock band Holy Fuck, and is currently touring Australia for the second time. Holy Fuck were invited to perform at the Sydney Festival (Jan 27) and Laneway Festival (all Australian capital cities + Auckland, Wellington & Singapore). They are also performing one headline show in Melbourne on Feb 3, and the A2 poster was designed to promote this concert to ticket buyers. The use of the word "Fuck" in the advertisement is not gratuitous and does not aim to cause offence. It is used in an artistic context, as it is the band's name and an integral part of their creative/musical vision. The poster is very obviously a band poster, with the date & venue of the performance prominently displayed, so that anyone observing the poster would be aware that there is a musical context and that it is not gratuitous use of strong language. The posters were not displayed in locations targeting the general public. Poster distributors were given specific instructions to display them only in areas which targeted our audience of sophisticated music fans, in venues such as cafes, bars, bookstores, music venues etc. We are surprised that the complaint cited a poster being displayed at the eye level of children, as the campaign brief specified the need to be aware of the sensitive nature of the posters and to take great care in the placement of posters. The band successfully toured Australia without any complaints in December 2008, and have been promoted extensively by both Sydney Festival and Laneway Festival. Holy Fuck are an internationally renowned band who have performed at major music festivals all over the world, including Glastonbury (UK), Coachella (USA), Fuji Rock (Japan), Roskilde (Denmark) and many more. They have a solid critical reputation as being one of the world's best live electronic bands and music fans will recognise their name for what it is - a band name, not an offensive or obscene use of language. There are several other bands in the indie music scene with the "F" word in their name such as Fucked Up and Fuck Buttons, both of whom have successfully toured Australia and been promoted under their band names. In conclusion, Mistletoe believes that the use of strong language in this campaign is "appropriate in the circumstances" under Section 2.5 of the AANA Code of Ethics, due to the context of the band's name. The advertising campaign has now been discontinued, and poster distributors have been requested to take down all remaining copies of the poster.

THE DETERMINATION

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

The Board noted the complainant's concerns that the advertisement features inappropriate language.

The Board viewed the advertisement and noted the advertiser’s response

The Board then considered whether the advertisement was in breach of section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.”

The Board noted that this advertisement is promoting a concert by a band called 'Holy Fuck'.

The Board noted the advertiser's response that the use of the F word is not gratuitous as it is the name of the band, and that the advertisement was not to be displayed in areas targeting the general public.

The Board noted that the band's name is 'Holy Fuck' however the Board considered that the use of bold bright lettering of the band's name in the advertisement drew the eye to the F word. The Board considered that the initial visual impact of the advertisement is the F word and that the details about the band's gig are printed in much smaller lettering.

The Board accepted that the word is part of the band's name but considered that its role is to assess how a product is advertised and whether the manner of advertising is appropriate to the community. The majority of the Board considered that the language used is language that is still considered strong if not obscene by the broader community.

The Board noted that this advertisement was seen on a pole in a nature strip. The Board considered that the location of the advertisement meant it would be available to a wide audience and that in the context of an outdoor location the prominent use of such language is inappropriate.

Based on the above the Board determined that the advertisement used strong and obscene language which was not appropriate and that it did breach Section 2.5 of the Code.

Finding that the advertisement breached Section 2.5 of the Code, the Board upheld the complaint.

ADVERTISER RESPONSE TO DETERMINATION

Mistletoe confirms that the above campaign has been discontinued following the receipt of the complaint.

All posters have been removed from all locations throughout Melbourne, therefore the advertisement has been completely discontinued.