



Case Report

1	Case Number	0062/12
2	Advertiser	Mitsubishi Motors Aust Ltd
3	Product	Vehicles
4	Type of Advertisement / media	Radio
5	Date of Determination	14/03/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

2.5 - Language inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

Radio ad for Mitsubishi Motors where we hear voices of two upper-class British colonists. They speak about the inconvenience of an alien invasion while they are enjoying afternoon tea with one of them saying, "Bollocks..."
Voice changes to talk about the convenience pack now available on a Mitsubishi Lancer ES at your local Mitsubishi dealer.

THE COMPLAINT

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

They use the word 'bollocks' in it. Not great when you have kids in the car and they repeat things. It's totally unnecessary!

THE ADVERTISER'S RESPONSE

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

Mitsubishi Motors Australia Limited (MMAL) writes in response to the above complaint, which was referred to us on 10 February 2012.

The complaint relates to a radio commercial promoting the Mitsubishi Lancer ES with convenience pack (RC).

1. THE COMPLAINT

The complaint to which we are responding was made by an unidentified person. The complainant describes the RC in the following terms:

'Selling Mitsubishi' cars' (sic).

The complainant describes the cause for concern as:

'They use the word 'bollocks' in it. Not great when you have kids in the car and they repeat things. It's totally unnecessary!'

The complaint is said to raise issues under section 2.5 of the Australian Association National Advertisers Code of Ethics (AANA Code) which provides as follows:

'Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.'

1. RESPONSE TO THE COMPLAINT

1.1 General Observations

The complaint appears to allege that the RC:

- Uses language that is strong or obscene; and*
- Uses language that is, in the circumstances, unnecessary or inappropriate.*

For the reasons identified below, and with respect to the complainant's personal views, it is clear that when considered (listened to) in context, such a complaint is without foundation. Put at its highest the complainant has taken the view that the word "bollocks" is a strong or obscene profanity that has been included gratuitously in the RC.

On the contrary, the manner in which the word has been used serves to set the scene of the RC, to place that scene in a context and to give depth to the character speaking it. The word is intended to give the Prime-Minister's character an air of pomposity and priggishness. Further, as the word is commonly known by, used by, and associated with British people it has been employed as a device to illustrate the character's geographical origins, to imply that he is a bombastic, upper-class Englishman who enjoys the conveniences associated with that lifestyle.

As radio is not a visual medium, it is the sounds and language employed by the advertisers which set up the mise-en-scène, and illustrate to listeners the situation and the context of what they are hearing. Thus the word "bollocks" has not been used unnecessarily. It has been used for the legitimate purpose of creating a scene and introducing the characters to the listeners. It is totally appropriate in the circumstances.

The implication that "bollocks" is something of an obscenity, and is not an acceptable word in everyday speech is also in itself unsustainable. The ASB might, for example, remind itself of the complaints made in relation to the Toyota "bugger" television campaign of 1999, and its decision in relation to those complaints. The ASB will recall that that campaign prominently featured a number of characters who, when their vehicle moved in an unexpected way invariably exclaimed "Bugger!". In so doing (and in stark contrast to the RC), the word was expressly and explicitly used as an expletive in that campaign.

Complaints against this commercial suggested that the language used was unnecessary, unacceptable and insulting. However, the ASB held that the language used could not be considered offensive to prevailing community views, and that it did not breach the AANA Code (see ASB complaint reference number 131/99). In its determination the ASB also commented on the fluidity of language, and how the meanings of words can change over time.

The ASB found that the word "bugger" is now used widely and innocuously in the Australian community.

The same can be said of the word "bollocks". Its origins are arguably less sinister than "bugger", and its usage in common speech is similarly wide and innocuous. Such examples of its use are:

- 1. to indicate that something is rubbish or untrue, as in "that is a load of bollocks";*
- 2. to indicate that something is the best, as in "action films are the bollocks";*
- 3. simply as an exclamation, as in "bollocks!"; or*
- 4. in reference to a man's testicles, as in "you got me right in the bollocks".*

The term is used widely in British vernacular, and increasingly so in Australian.

Further, this position is reinforced when considered in context of the widely publicised "Nuckin Futs" trade mark application. That trade mark was initially deemed too scandalous by the Commonwealth trade mark office and was therefore initially rejected for registration. However, the mark was ultimately accepted on the argument that the word "fuck" (which was implied by the combination of the words "nuckin" and "futs") is now such a normal part of Australian speech that it was not scandalous within the meaning of that term under the Trade Marks Act.

"Nuckin Futs" is now an accepted trade mark.

While MMAL would not use "fuck" in its advertisements and does not suggest that such use would be in accordance with prevailing community standards regarding obscene language, it is clear that the term "bollocks" is so far removed from such a word on any scale of obscenity that if "fuck" can be accepted as not scandalous, "bollocks" cannot possibly be obscene or offensive.

The complaint has not specifically alleged that the RC was directed to children, but for the sake of completeness, we briefly address the issue. The RC is not an example of "advertising or marketing communications which, having regard to the theme, visuals and language used, are directed primarily to children..." so the AANA Code for Advertising and Marketing Communications to Children does not apply. The RC is aimed at adults in the market for a new car, and this audience should be familiar with the term ""bollocks"" and its correct interpretation in the context. Further and in any event, the complainant implies that his/her children started mimicking the language of the RC upon hearing it played on the radio. Whether they are doing so because they are attracted to the word or to the pomposity with which it is pronounced is not addressed by the complainant. However, in either event it is not an obscenity or profanity and is likely to pale into insignificance having regard to the unfortunate and often genuinely obscene or profane language used in public – and in the school yard – these days.

We therefore suggest that any reasonable person listening to the RC (and having regard to the prevailing community standard) could not possibly interpret the language used in it as obscene, offensive or inappropriate in the circumstances. We therefore also invite the ASB to find that, consistent with its decisions in response to similar complaints, such as the Toyota complaint referred to above, "bollocks" is an inoffensive, widely used and widely interpreted term that cannot be considered strong or obscene for the purposes of the AANA code.

1.2 Application of the AANA Code

For all of the above reasons, MMAL and Clemenger BBDO contend that the RC does not use language that is inappropriate in the circumstances, considering the relevant audience and medium. The term "bollocks" can be considered neither strong nor obscene. The RC therefore does not breach section 2.5 of the AANA Code. To the contrary (and for the sake of completeness) MMAL and Clemenger BBDO contend that the RC is compliant with all aspects of the AANA Code and the Federal Chamber of Automotive Industries Advertising Code (FCAI Code).

2. SUMMARY

In producing the RC MMAL and its agency, Clemenger BBDO, have taken every care to ensure that it complies strictly with the AANA and FCAI Codes.

We ensure that all of our advertisements are respectful of the community and all the people in it, particularly given that ultimately they are our customers.

There is no breach of the AANA or FCAI Codes and we request that the complaint be dismissed.

Please let us know if you require anything further.

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 complainants’ concerns that the advertisement uses inappropriate language unsuitable for children.

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 the advertisement features characters who are intended to sound like typical English men.

The Board noted the advertiser’s response that the advertisement was tailored to appeal to the section of the community most likely to be buying and driving cars and that the language used in the advertisement was chosen to assist with setting the scene and geographical origins of the characters.

The Board noted that the word "bollocks" is commonly known by, used by, and associated with British people. The Board accepted that the word “bollocks” could be considered offensive by some members of the community however the Board considered that the use of this term is unlikely to be understood by most children.

The Board considered that the word bollocks is not strong or obscene.

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

Finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaint.

