



## Case Report

|   |                               |                |
|---|-------------------------------|----------------|
| 1 | Case Number                   | 0092/11        |
| 2 | Advertiser                    | Game Australia |
| 3 | Product                       | Gaming         |
| 4 | Type of Advertisement / media | Poster         |
| 5 | Date of Determination         | 13/04/2011     |
| 6 | DETERMINATION                 | Dismissed      |

### ISSUES RAISED

2.5 - Language      Use appropriate language

### DESCRIPTION OF THE ADVERTISEMENT

Old style black and white images of a young woman talking on the telephone to an older woman. The young woman has a speech bubble which reads, "The latest releases for \$28" and the older woman has a speech bubble reading, "WTF!?"

### THE COMPLAINT

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

*The prominently featured text "WTF" is a well known computer abbreviation for "What The F\*\*K". The signs and posters are displayed both inside the store and outside the store where both those who chose to be patrons of the store and those who do not can see them. This includes young children who are naturally curious about what "WTF" means.*

*Surely this sort of language whether directly expressed or simply implied has no place in advertising particularly with a store that caters to a family audience. My own children (6 and 8 years old) frequent this retail store to purchase games for their Nintendo Wii console and Nintendo DSI consoles.*

*I believe this is a profanity, implied or not, and is in clear view to minors.*

*The games being advertised admittedly were for the older age market as the games shown on the bottom of the ad were MA rated but being that I was sitting in the food court of the shopping centre all ages are exposed. Considering what WTF stands for I don't believe that it is appropriate to be plastered over the shop front window. All ages buy games from these*

*stores and young children shouldn't be exposed to this type of advertising I don't believe. If I have the interpretation of WTF wrong I would love to know the non explicit meaning so I can truthfully tell my children what it stands for!*

## **THE ADVERTISER'S RESPONSE**

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

*We understand that 2 complaints have been raised under subsection 2 of the Australian Association of National Advertisers (AANA) Advertisers Code of Ethics regarding Game Australia's current Why Trade For-less (WTF) promotional campaign.*

*Game Australia is not a member of the AANA and is accordingly not subject to the self-regulatory codes published by the AANA. However, Game Australia takes complaints which affect its reputation seriously and therefore we are responding to your letter.*

*Game Australia considers the complaints attached to your letter of 17 March to be without merit and is surprised that these complaints have been brought to its attention.*

*Please provide these attached documents to the members of the Australian Standards Board (ASB) for consideration during its meeting on 27 March 2011:*

- a description of the advertisement in issue;*
- several examples of Game Australia's use of the advertisement; and*
- Game Australia's comments for consideration.*

*We have not attached a script, details of CAD number or CAD rating because the advertisement was not run on radio or television. The advertisement was not created by an advertising agency.*

*Finally, we note that the Why Trade For-less (WTF) Campaign will end on 7 April 2011, shortly after which time all of the advertising and marketing material bearing the advertisement the subject of the complaint will be removed from view.*

### *1. Comprehensive Comments*

*Game Australia is a specialist retailer of PC and video games, video consoles and related accessories. It has 95 stores across Australia and is one of only three Australian retailers who, in addition to new games, also trade in pre-owned games (the others being JB Hi-Fi and EB Games). Pre-owned games (or trade-ins) may only be traded by law by and with people over the age of 18 years or with the guardianship of a person over the age of 18. The advertisement in issue is part of Game Australia's campaign titled "Why Trade For-less" (the WTF Campaign). It was designed to raise awareness of and promote trade in pre-owned video games. Given the legal age requirements for trading in pre-owned games, it is targeted to catch the interest of people over the age of 18 in relation to trading in pre-owned games. Game Australia does not accept that it has done so in a manner that could offend a reasonable person of any age.*

*The WTF Campaign advertisement features three main scenes. The first, shows a woman on a telephone with the speech bubble that says "the latest releases for \$28\*". The second scene follows immediately and shows a second woman with the speech bubble that says "WTF!?" The third is placed either immediately after or adjacent to the first two scenes. The third scene provides the deal on offer and the condition indicated by the asterisk in the first scene. The third scene states "when you trade one selected game" and then below this are the words*

*“Terms and Conditions Apply. See staff for details. “WTF!?” stands for “Why Trade For-less!?”*

## *2. Complaint*

*A letter from the Australian Standards Bureau (ASB) dated 17 March 2011 provided Game Australia with two complaints (the Complaints) raised under section 2 of the AANA Advertiser Code of Ethics (the Code). While Game Australia is not a member of the AANA and is not subject to the Code, it provides the following comments as to why the two complaints should be dismissed.*

*The Complaints assert that Game Australia’s use of the letters “WTF” in its advertising conveys a particular phrase, and that the phrase includes an obscenity. Accordingly, Game Australia understands that the ASB considers that Game Australia may have breached sub-section 2.5 of the Code.*

*The Complaints also indicate that Game Australia’s WTF advertisement would be seen by children who may query the meaning of the combination of those letters with their parents / guardians. First, it must be acknowledged that this advertising is not directed ‘to’ children as provided for in sub-section 2.4 of the Code. Second, as discussed below, all of Game Australia’s advertising clearly states the meaning of WTF to be “Why Trade For-Less”. Accordingly, Game Australia has taken positive steps to provide parents and children with an easily accessible explanation as to the meaning of the combination of letters “WTF” in the context of video games. For this reason, Game Australia is of the view that sub-section 2.4 of the Code is not in issue but reserves its right to provide further comprehensive comment should the ASB assert otherwise.*

### *Sub-section 2.5 of the Code*

*Understanding that sub-section 2.5 of the Code provides that:*

*“2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided, the inference in the Complaints is that Game Australia’s WTF advertising campaign uses language which is strong or obscene. Game Australia rejects this contention for several reasons, including:*

- Game Australia’s advertising does not use a strong or obscene word or phrase, it only uses letters;*
- there are a variety of expressions understood by the use of the letters “WTF” together which are not obscene;*
- even if WTF is considered to ‘impute’ the phrase alleged, the abbreviation does not offend community standards as observed by IP Australia; and*
- all of Game Australia’s advertising and marketing communications provide a clear explanation that WTF in this context means “Why Trade For-less (as can be seen in the attached examples of those communications).*

### *2.1 Why Trade For-less*

*It is clear that Game Australia’s advertising does not expressly use strong or obscene language. Accordingly, it does not breach section 2 of the AANA Code of Ethics.*

*If this is not accepted, the question then becomes what does “WTF” convey and is it offensive to Australian community standards?*

*Game Australia strongly believes that its WTF Campaign only uses language which is appropriate in the circumstances and rejects any contention that the WTF Campaign uses strong or obscene language. The WTF Campaign was created to promote awareness of Game Australia’s business in trading pre-owned video games. Since Game Australia is legally prohibited from trading pre-owned video games with people who are under the age of 18 (unless accompanied by someone who is over the age of 18), the campaign was styled to appeal to the market of gamers over the age of 18. Accordingly, it attempted to tie the idea of*

trading pre-owned video games for new games with a play on an acronym to stir the intellect of the customer to “question” what the promotion was about. To fully promote the idea behind the campaign and provide the “answer”, Game Australia included its intended meaning of the acronym on all of its advertising. As can be seen on each of the attached examples of Game Australia’s marketing and advertising material, wherever WTF is used, it also provides “‘WTF!?’ stands for ‘Why Trade For-less!?’”

## 2.2 Use of WTF

### WTF considered in context

Any combination of letters can, with imagination and creativity, be interpreted as acting as an acronym for one meaning or another. Game Australia accepts that some acronyms are better known than others. A good example of this is the acronym “LOL”. Some people take this to mean “Lots of Love” and others “Laugh Out Loud”. But in each use, the letters must be considered in the context of the situation.

Although the complainants have expressed concern that “WTF” indicates an abbreviation for particular words, the ASB is no doubt also aware that as a combination of letters, WTF is in common use as an acronym for all manner of alternate meanings including (but not limited to) those excerpted below which may be appropriate in relation to the Australian gaming industry:

| Acronym | Commonly Understood Meaning                        |
|---------|--|
| WTF     | What’s This For?                                   |
| WTF     | What If  |
| WTF     | Why The Face?                                      |
| WTF     | Work Time Fun (a Play Station Portable video game) |
| WTF     | Warcraft Text File (World of Warcraft)             |
| WTF     | Whiskey Tango Foxtrot                              |
| WTF     | What The Freak                                     |
| WTF     | Welcome To Fun                                     |
| WTF     | Where’s The Fire?                                  |
| WTF     | Weapons Task Force (Computer gaming)               |
| WTF     | Wow, That’s Fun!                                   |
| WTF     | World Trade Federation                             |
| WTF     | Working Title Films                                |
| WTF     | Worse Than Failure                                 |
| WTF     | Weekly Top Five                                    |
| WTF     | Waking The Fallen                                  |

Considering WTF in the context of video game advertising, where a clear explanation of the meaning of the combination of letters “WTF!?” is provided on the face of the advertising materials, Game Australia does not accept that its WTF Campaign contravenes subsection 2.5 of the AANA Advertiser Code of Ethics.

### WTF in the community

Though Game Australia was not using WTF as a trade mark in this instance, material accepted as a trade mark can be a useful guide on community standards since subsection 42(a) of the Trade Marks Act 1995 (Cth) requires IP Australia to reject an application for registration of a trade mark which “contains or consists of scandalous matter”.

IP Australia has itself noted in its Trade Mark Examiner’s manual that “[l]ess commonly used expressions, particularly where they also have a double meaning, are far less likely to be offensive to any significant element of society. Calculated concealment of the words or a clever disguising within a device element may create an acceptable trade mark” which is no way offensive, scandalous or constitutes strong or obscene language.

*In this light, we further draw the ASB's attention to the fact that an application has been made by a party unrelated to Game Australia and accepted by IP Australia for the combination of letters "W" "T" and "F" in relation to clothing, headwear and footwear. The fact that IP Australia has permitted registration of a trade mark constituted solely by the combination of letters "W" "T" and "F" clearly indicates that IP Australia's comprehensive examination of public material and community standards has led it to conclude that WTF is not in any way offensive, scandalous or constituting strong or obscene language.*

*In view of the above, and taking into account:*

- *that Game Australia has not used strong or obscene language;*
  - *that Game Australia has incorporated an understandable and accessible explanation as to the meaning of the combination of letters WTF!?! in its point of sale material;*
  - *that the combination of letters "W", "T" and "F" is in common use as an acronym for a range of diverse goods and services, has been regarded as an acceptable trade mark by IP Australia and has a wide array of divergent meanings,*
- Game Australia believes that the advertisement the subject of the complaints does not breach section 2 of the AANA Advertising Code of Ethics and accordingly the complaints should be dismissed.*

## **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 concern that the advertisement uses inappropriate language.

The Board reviewed the advertisement and noted the advertiser's response.

The Board 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 the advertiser's response that the WTF Campaign was created and styled to appeal to the market of gamers over the age of 18. To promote the idea behind the campaign, Game Australia included its intended meaning of the acronym ie: "WTF!?! stands for 'Why Trade For-less!?!'"

The Board noted that it has previously considered advertisements which have used acronyms to appeal to a younger adult market. Consistent with previous decisions the Board considered that the use of the acronym 'WTF' was not of itself strong or obscene language. The Board noted that the advertisements are large poster advertisements and available to a broad audience. The Board considered that the acronym was in line with the interests of the target audience of over 18 year olds.

The Board considered that although young children may view the posters they would be unlikely to understand the acronym. The Board also considered that older children and adults may notice the advertisement on the basis of the acronym but that the poster does contain a clear explanation that the acronym in this situation means 'why trade for less'. The Board considered that the use of the acronym was not, in the context of this advertisement, inappropriate in the circumstances.

The Board determined that the advertisement did not use language considered strong or obscene, was appropriate for the advertisement and therefore did not breach section 2.5 of the Code.

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