



Case Report

1	Case Number	0093/15
2	Advertiser	FOXTEL Management Pty Ltd
3	Product	House Goods Services
4	Type of Advertisement / media	Internet
5	Date of Determination	25/03/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

2.5 - Language Strong or obscene language

DESCRIPTION OF THE ADVERTISEMENT

The advertisement is a 'Gogglebox Launch Promo Spot' advertised by Foxtel in a 'True View' spot on YouTube. The Advertisement features several edited clips taken from footage which was shot for the Series. The focus of the Advertisement is on revealing the personalities of the contributors who will feature in the Series and their reactions to a variety of television programming. A man is heard using the 'F' word in response to something he is viewing.

THE COMPLAINT

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

Person say 'fucked' twice and this is being advertised on children's shows as pre-roll. The media company has clearly not targeted this correctly.

THE ADVERTISER'S RESPONSE

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

We understand that the Complaint relates to the 'Gogglebox Launch Promo Spot' advertised by Foxtel in a 'True View' spot on YouTube from Tuesday 10 to Sunday 15 February 2015

(the 'Advertisement').

The complainant is concerned about the language in the Advertisement and its placement before children's content.

The basis of this Complaint is an alleged breach of section 2.5 of the AANA Advertiser Code of Ethics (the 'Code'), which provides that:

'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.'

The Advertisement is promoting Gogglebox Series 1 (the 'Series') which was commissioned by Foxtel in conjunction with Network 10 and which comprises 10 weekly episodes broadcast on The LifeStyle Channel.

The Advertisement was a promotion for the launch of the Series on Foxtel and comprised several edited clips taken from footage which was shot for the Series. The focus of the Advertisement is on revealing the personalities of the contributors who will feature in the Series and their reactions to a variety of television programming. The tone of the Advertisement is in line with that of the Series and contains a mix of humorous and serious reactions expressed in a spontaneous and natural way.

The Advertisement was not given a CAD rating.

Section 2

Foxtel has reviewed the Advertisement against Section 2 of the Code. The Advertisement contains the following instances of coarse language:

1. The word 'fucked' (the language the subject of the complaint) appears twice at 12 and 13 seconds into the Advertisement in a short clip featuring a male contributor.

This clip is preceded by the words on screen: 'Something is coming... that reveals what Australia is really thinking'. The male contributor then reveals what he is thinking in reaction to a television item he has just viewed, and says: 'he's fucked health, he's fucked education'.

We submit that the language was appropriate in the circumstances of this Advertisement when you consider the relevant audience and medium.

When determining the 'Relevant Audience' of the Advertisement we understand that in the case of social media 'the Board shall have regard to the opt-in nature of the medium and the age gating which may apply to some social media sites.'

Foxtel submits that the language is infrequent, its tone is not aggressive or demeaning and it fits within the context of the Advertisement, which is light-hearted in nature. Furthermore, we submit that the language is the common vernacular of Australians within the age group of the target audience and would therefore not offend the prevailing community standards of that audience.

We therefore consider that the use of this language is appropriate for the relevant audience and medium.

2. The word 'shit' appears once at 57 seconds into the Advertisement. The clip is very short and it is the reaction of a female contributor when she drops something.

We understand that the Board permits the use of the word 'shit' as a word which is 'innocuous and in widespread and common use in the Australian vernacular', provided it is 'used in a manner consistent with their colloquial usage and not used in a demeaning or aggressive manner.'

The language only appears once and we consider it non-aggressive and non-demeaning in tone. It fits within the context of the Advertisement, which is light-hearted in nature, and the language is in widespread and common use in the Australian vernacular.

We therefore consider that the use of this language is appropriate for the relevant audience and medium.

Placement of the Advertisement

Foxtel has reviewed the placement of the Advertisement. Our review has revealed that the Advertisement did unfortunately appear in the pre-roll for children's content 'Bob the Builder' and 'Wheels on the Bus'. The Advertisement is no longer on the YouTube site. Our understanding is that every advertisement uploaded on YouTube goes through an approval process by Google and that it is a requirement that account holders are 18 years of age or over and must sign in before content of this nature becomes accessible to them. We also submit that we have adhered to the YouTube content guidelines: https://www.youtube.com/t/community_guidelines.

Our review has revealed that advertisements intended for adults can appear in the pre-roll to children's content on YouTube. The use of adult accounts by children is a factor that is outside of Foxtel's control. Google has explained to us that it is exploring solutions to avoid advertisements of this nature appearing within children's content in the future.

Foxtel sincerely regrets any offence caused to the complainant and their family and takes the Complaint very seriously. In the light of this Complaint and given our concerns that YouTube is unable to currently guarantee that advertisements containing adult content will not appear within content intended for children, we have reviewed our approach regarding the placement of advertisements on digital sites. Until reliable mechanisms are available to prevent advertisements intended for an adult audience from appearing within children's content, Foxtel will ensure that advertisements are not placed on that site or any other sites that may suffer from the same issue.

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 contains the work 'fuck' which is offensive and inappropriate, particularly as it is shown as a pre-roll ahead of children's online shows.

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 (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided".

The Board noted the advertisement is an internet pre-roll promotion and features scenes from the program "gogglebox" and shows the information regarding when the program starts and on what channel.

The Board noted in particular there is a scene where a man is heard saying "he's fucked health, he's fucked education." The Board noted that in the context shown, the word "fuck" is not used in a sexual manner but rather is used as the colloquial adjective referring to ruining something, in this case health and education.

A minority of the Board considered the use of the word 'fucked' is inappropriate in any context and that the placement prior to children's online programming is not acceptable.

The majority of the Board however, considered that the use of the word in this instance was not depicted in an aggressive manner and that in the context of the promotion of a program where people are seen responding to what they are viewing on television, it is not strong or obscene.

In the Board's view the use of this language is fleeting and overall the advertisement does not portray or encourage the use of language which is strong, obscene or inappropriate in the circumstances.

The Board noted the advertiser's response that the advertisement was mistakenly placed ahead of children's programs such as Bob the Builder and Wheels on the Bus but that this was not intentional and that the advertiser had adhered to the Youtube content guidelines.

The Board noted that the advertiser has advised that the advertisement was no longer being aired on the Youtube site.

The Board considered that the advertisement did not use language which was strong, obscene or inappropriate in the circumstances of promoting the specific program.

The Board determined that the advertisement 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 complaints.