

Case Report

1. Case Number :	0098-23
2. Advertiser :	Athena
3. Product :	Finance/Investment
4. Type of Advertisement/Media :	Radio
5. Date of Determination	14-Jun-2023
6. DETERMINATION :	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.5 Language

DESCRIPTION OF ADVERTISEMENT

This radio advertisement features the voiceover:

Hi BEEP Bank.

Customer: Hi. My home loan's about to come off a fixed rate and...

Representative: Ha, well you're fu...d

Customer: I beg your pardon?

Representative: I said "you're fuxed"

Customer: Fuxed?

Representative: (Putting on a fake New Zealand accent) Yes, you're on a "fuxed" rate. I'm from New Zealand.

Customer: Okaaaay, so where does that leave me?

Representative: (Putting on a fake New Zealand accent) Totally "fuxed".

Customer: Unless I switch.

Representative: (Putting on a fake New Zealand accent) Aww, no bro, don't swutch.

Customer: Oh, yes bro.

V/O: If your lender's not looking after you, go to athena.com.au where you're sweet as, bro. Athena. Love us and leave us.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

They have used an actor with a fake New Zealand accent saying repeatedly "Fuxed" and then the actor was made to appear stupid, by just repeating "fuxed" and "sweet as bro", not in a funny or good way.

Clearly meant blur the line in meaning and pronunciation between “fixed” and fucked. Completely inappropriate this is on air at school pickup time

I feel that they are playing public radio, during the day, and there should be some decency behind the language. I feel that the poor use of a dodgy Kiwi accent doesn't excuse the use of fuck on public radio.

Contains Racism, discrimination and foul language.

THE ADVERTISER'S RESPONSE

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

We appreciate the opportunity to address your concerns regarding the radio advertisement in question. Having re- reviewed the AANA Code of Ethics Section 2, with particular focus on 2.1 Discrimination or Vilification and 2.5 Language, we are confident that this advertisement does not contravene either the edict or spirit of this advertising code.

Firstly, we would like to provide our perspective on why we believe the advertisement is not racist or discriminatory towards New Zealanders.

- *Intent and Humour: The primary intention behind the advertisement was to create a light-hearted and humorous scenario, engaging the audience while promoting our services. The fictional characters, 'Beep Bank' and 'Beep Bank Customer,' were designed to create a playful interaction, with the representative often putting his foot in his mouth. The use of humour, including the accent switch, is not meant to demean or ridicule New Zealanders but to entertain listeners.*
- *Equal Treatment: It is important to note that the advertisement does not single out New Zealanders for discriminatory treatment. The interaction between the customer and the Beep Bank representative revolves around a general financial situation and the need to refinance a home loan. The focus is on the representative's attempted cover-up, rather than specifically targeting any nationality or ethnicity that discriminates against or vilifies.*
- *Contextual Considerations: To evaluate the advertisement fairly, it is crucial to consider the broader context in which it is presented. Our series of advertisements featuring 'Beep Bank' are consistent in their portrayal of the representative as a flawed and comical character. While the accent switch may have occurred, it does not represent a systematic or intentional effort to discriminate against New Zealanders.*
- *Audience Reception: It is important to acknowledge that interpretations of humour can vary among individuals. We understand that some may find elements of the advertisement offensive, while others may perceive it as*

harmless entertainment. We have taken steps to monitor any feedback we receive to ensure that our content resonates positively and achieves its intent.

We remain committed to ethical advertising practices and understand the importance of treating all individuals and communities with respect. We acknowledge the concern raised and are open to reviewing our future campaigns to ensure that they align with inclusivity and cultural sensitivity.

Secondly, we would like to address the specific complaint regarding the apparent use of offensive language, and would like to explain why we believe the advertisement is not offensive in this regard.

- Intended Audio Censorship: We want to clarify that it was never our intention to include explicit or offensive language in the advertisement. We understand the importance of adhering to industry guidelines and maintaining a responsible approach to content creation. The use of audio censorship techniques was a deliberate decision aimed at ensuring that no offensive language was aired during the advertisement.*
- Contextual Interpretation: We acknowledge that the scenario depicted in the advertisement could be interpreted by some listeners as if the word "f***" was about to be uttered. However, it is crucial to consider the broader context of the advertisement. The scenario was designed to create a comedic effect by teasing the listener with an anticipated word that is ultimately not spoken. It was intended as a humorous device, not as an endorsement or promotion of offensive language.*
- Suitable for All Audiences: We recognise the importance of considering there could be a diverse audience that listens, including families and children, when developing our advertisements. We take great care to ensure that our content remains appropriate and enjoyable for listeners of all ages. The advertisement in question underwent thorough review processes to ensure it aligns with industry standards and maintains a family-friendly approach.*
- Audio Monitoring and Compliance: We have processes in place to monitor and maintain compliance with audio standards. This includes employing audio editing techniques to ensure that offensive language is neither present nor broadcasted. We remain committed to maintaining these high standards and constantly strive to improve our processes to uphold the values of decency and responsible advertising.*
- Listener Feedback: We value the feedback received from our listeners and appreciate their perspectives. We actively encourage open dialogue with our audience, including those who have expressed concerns. We are committed to considering this feedback in our ongoing efforts to refine and improve our advertising campaigns.*

We want to assure you that we take all concerns regarding offensive language seriously. We remain committed to upholding the highest standards of advertising

ethics and compliance, and we appreciate your role in safeguarding the interests of the community.

We welcome the opportunity to engage in a constructive dialogue to address any further concerns and to work towards promoting ethical advertising that upholds the values of diversity and equality.

Thank you for your attention to this matter. We welcome any further discussions or recommendations you may have to address these concerns effectively.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants concerns that the advertisement was racist and contained inappropriate language.

The Panel viewed the advertisement and noted the advertiser's response.

Section 2.1: Advertising shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual orientation, religion, disability, mental illness or political belief.

The Panel noted the AANA Practice Note which provides guidance on the meaning of:

- Discrimination - unfair or less favourable treatment
- Vilification - humiliates, intimidates, incites hatred, contempt or ridicule
- Nationality – people belonging to a particular nation either by birth, origin or naturalisation.

The Panel considered that while making fun of accents of minority groups in the community is outdated, in poor taste, is not funny and can be harmful, the advertisement's tone is light-hearted and the portrayal the accent as obviously fake was ridiculing of the person in the advertisement, rather than New Zealanders.

The Panel considered that the advertisement did not contain any negativity towards New Zealand or New Zealanders, and people who heard the advertisement would not think less of New Zealanders.

The Panel considered that the advertisement did not depict people receiving unfair or less favourable and did not humiliate, intimidate or incite hatred, contempt or ridicule a person or section of the community on the basis of nationality.

Section 2.1 conclusion

Finding that the advertisement did not portray material in a way which discriminates against or vilifies a person or section of the community on account of nationality, the Panel determined that the advertisement did not breach Section 2.1 of the Code.

Section 2.5: Advertising 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 Panel noted the advertisement was a radio advertisement played at school pick-up time and that the relevant audience would be broad and include children.

The Panel noted that the Practice Note for this section of the Code includes:

“The “f” and “c” words are generally viewed as harmful, unacceptable and not permitted. Nonverbal representations of the “f” word are also generally not permitted. Words and acronyms that play on the ‘f’ word, e.g. WTF and LMFAO, but do not use the actual word are normally considered acceptable if used in a light hearted and humorous way, are in subtitle rather than spoken word and are appropriate to the situation. Advertisements which use the ‘f’ word in full will be seen to constitute strong and offensive language, even when the audience is restricted. Advertising which uses the ‘f’ word where it has been insufficiently censored so that it can be easily understood by audiences, will be seen to constitute strong language, especially when seen by a broad audience.”

The Panel noted that the advertisement tried to cover up a person saying ‘fucked’ by pretending he had a New Zealand accent and was saying ‘fixed’.

The Panel considered that the swear word had been insufficiently censored and that it would be easily understood by the broad audience of the advertisement.

The Panel noted that the advertiser had tried to mitigate the swearing by providing an alternative meaning (fixed with a New Zealand accent), however considered that children would not understand the concept of fixed rates and as such would be more likely to hear swearing in the advertisement, and repeat it.

The Panel noted that it had consistently determined that the word ‘fuck’ written in full was strong and obscene and is inappropriate in advertising to a broad audience (0020-23, 0074-21, 0156-20, 0063-19, 0002-19).

Consistent with the previous determinations, the Panel considered that the insufficiently censored swear word in the current advertisement was not appropriate for a broad audience and would be considered strong and obscene language by most members of the community.

Section 2.5 conclusion

The Panel determined that the advertisement did contain strong or obscene language and did breach Section 2.5 of the Code.

Conclusion

Finding that the advertisement did breach Section 2.5 of the Code the Panel upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

Thank you for your thorough review and determination regarding our radio advertisement. We appreciate your guidance and understand the importance of adhering to the industry standards set forth by section 2.5 of the code. We hereby confirm our decision to discontinue the advertisement in question, effective from 23 June 2023.

We take our responsibility as advertisers seriously and strive to maintain the highest standards of appropriateness and respect for our audience. We understand that language choice is critical in ensuring that our content remains suitable for the relevant audience and medium.

To comply with the determination and rectify the situation, we have promptly taken the following actions:

1. We have ceased airing the radio advertisement from 23 June 2023. This decision ensures that the content, which was deemed in breach of section 2.5, is no longer disseminated to the public.
2. We have conducted a thorough internal review of our advertising processes and protocols. We are committed to implementing additional measures to prevent similar issues from arising in the future. This includes strengthening our content evaluation procedures and optimising our compliance checks.
3. We will communicate the discontinuation of the advertisement to our stakeholders, including media platforms and partners. We will emphasise our commitment to responsible advertising practices and the importance of language appropriateness in all our communications.

We acknowledge and appreciate the role of the Ad Standards Community Panel in upholding industry standards and ensuring the protection of consumer interests.

Once again, we extend our gratitude for your thorough evaluation of the complaint and for guiding us in aligning with the code. We remain committed to improving our practices and delivering content that meets the expectations of our audience while upholding the principles of ethical advertising.