



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0113/19
2	Advertiser	Koala Sleep
3	Product	House Goods Services
4	Type of Advertisement / media	Radio
5	Date of Determination	08/05/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Religion
- 2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

This radio advertisement is presented as a top and tail series, meaning the advertisements will always appear in the same ad break.

The first advertisement states:

Woman 1: Hiii Kelly how've you been?

Woman 2: SAAAAHAHHHH I've just come from my carrot colonic!

Woman 1: Carrot colonic?

Woman 2: Yeah they get a carrot and they..

Woman 1:<interrupting> No no I.. I think I get it.

Woman 2: Yeah and I'm just heading to my kegels kettle bells.

Woman 1:..your what

Woman 2: They get a kettle bell and they..

Woman 1:<interrupting> I .. I don't want to know.

Woman 2:How bout you? What's your secret, you look great!

Woman 1:Huh? Oh. I got a Koala.

Woman 2:A koala... Is that like a type of colonic?

Woman 1:No Kelly, it's a mattress...



Voiceover: Start your 120-night trial today of Australia's highest-rated mattress brand today, at koala.com.

The second advertisement states:

Woman 2: But anyway Sarah - back to this Koala Mattress thing... you say it's not.. A colonic?

Woman 1: No Kelly. You don't put in your..

Woman 2: Is it sort of like Cryo?

Woman 1: No... Kelly. It's a mattress. You sleep on it.

Woman 2: So how do you look so good?

Woman 1: Because it's amazing. And I sleep on it. Heaps. It's insanely comfy.

Woman 2: So I wouldn't have to get colonics any more?

Woman 1: Jesus Kelly.. No. And you can try it out for 120 nights.

Woman 2: Oh like a trial gym membership?

Woman 1: Sure. Sure kelly - if that makes it easier for you.

Woman 2: So where do I go?

Voiceover: You can start you trial today, at Koala.com.

THE COMPLAINT

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

Add is blasphemous towards the Christian Religeon when the Koala Matress supporter yells out "o Jesus !" in response to the second females response.

Offensives to Christians to use the name in this context.

The person answering the question gets frustrated and answers in a rude manner "Jesus Kelly!" I don't want my children hearing this type of interaction - especially in an ad. It's derogatory and offensive.

THE ADVERTISER'S RESPONSE

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

Please see our response below to the complaint referenced above.

Description of the ad

A "top and tail" radio advertisement, a comic representation of a conversation



between two women.

Comments:

Response to Section 2 of the AANA Advertiser Code of Ethics (the Code) as pertaining to the advertisement attached and the complaints dated 03 April, 2019 and 09 April, 2019.

2.1 – The radio advertisement to which the above complain relates to clearly does not vilify any peoples, nor does it speak ill of Christianity in general. It was not Koala’s intention to employ blasphemy – by definition it does not – nor to offend people of the Christian faith.

The advertisement in question does not refer to “Jesus” in a derogatory manner - as the first complainant surmised. The word “Jesus”, in and of itself, cannot and should not be construed as discriminatory. We are not making any comment about Jesus Christ, or indeed the Christian faith. We simply employed the word “Jesus” as a point of emphasis. Given the context of the word in the attached script, we believe this dialogue to be synonymous with community standards and ethics of the year 2019.

We note that the Menu Log precedent of June 2014 goes one step further in depicting a sacred event featuring a parody of Jesus Christ’s Last Supper. It is unclear – though it may be reasonably inferred – whether the Jesus referred to in our advertisement is Jesus Christ, whereas the Menu Log case clearly depicts Jesus Christ and makes a satirical comment on the sacred event. We also note this case was dismissed.

For the reasons above, we believe the ad does not breach 2.1 of the Code.

2.2 – The ad does not contain any content that could be suggested as sexually appealing. So it does not breach section 2.2 of the Code.

2.3 – The ad does not depict any violence. So it does not breach section 2.3 of the Code.

2.4 – The ad does not contain any sexual content, so it does not breach section 2.4 of the Code.

2.5 – The ad does not contain any obscene language and, given the nature of the dialogue and the placement of the ad we believe the language used to be very much “appropriate in the circumstances”. As stated above, we do not believe the word “Jesus” in and of itself to be blasphemous. It would need to identify “Jesus Christ” and show contempt towards Jesus Christ or his disciples for it to be considered blasphemy. As a sidenote, there are no enforceable laws against blasphemy in Australia, and we believe the very concept of it to be out of step with community standards and ethics. Therefore, it does not breach section 2.5 of the Code.



2.6 – The ad does not depict or incite material contrary to prevailing community standards on health and safety, so it does not breach section 2.6 of the Code.

2.7 – The ad was placed with its intended and appropriate audience. Therefore it does not breach section 2.7 of the Code.

THE DETERMINATION

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

The Panel noted the complainant's concern that the advertisement was blasphemous towards the Christian religion and contained inappropriate language.

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

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray 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 preference, religion, disability, mental illness or political belief.'

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

“Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule.”

The Panel noted there are two parts to the radio advertisement, one which plays at the beginning of the ad break and one which plays afterwards. The advertisement features a conversation between two women, Kelly and Sarah. Kelly explains the various techniques she uses to stay healthy such as carrot colonics and kegel kettlebells. She asks Sarah her secret to looking so good and Sarah explains that she has been sleeping really well on her new Koala mattress. At one point Sarah gets frustrated and exclaims, “Jesus Kelly, No”.

The Panel noted the complainants' concern that the advertisement was blasphemous and therefore disrespectful to Christian religion.

The Panel noted the advertiser's response that the word 'Jesus' in and of itself is not discriminatory.

The Panel noted that it had previously considered the issue of blasphemy in



advertising on several occasions, including in case 0506/15 in which the phrase 'Oh My God' is used. In this case:

"the Board considered that the phrase "Oh my God!" is part of the common Australian vernacular and is generally used to indicate surprise or disbelief. The Board noted that in the advertisement the phrase "Oh my God!" is first spoken by a reality television participant and then repeated by two girls. The Board noted the manner in which the phrase is spoken and considered that it is clearly indicating disbelief at some unspecified occurrence and is not being used in a negative or demeaning manner.

The Board acknowledged that some members of the community would find the use of the phrase "Oh my God!" to be offensive and blasphemous but considered that the manner in which the phrase is used in the advertisement is appropriate in the context of teenage girls reacting to reality television using a phrase which is part of the common Australian vernacular."

The Panel acknowledged that the phrase 'Jesus' is more specific to Christianity than the more general phrase 'Oh My God', however considered that its use in this manner is consistent with the use of the phrase in common Australian vernacular.

The Panel considered that the use of the word 'Jesus' in this context was clearly in frustration and that it was not being used in a way which was targeted towards people of Christian faith.

The Panel considered that the use of blasphemy in itself was not something which depicts or suggests that Christians receive unfair or less favourable treatment, or which would humiliate, intimidates, incites hatred, contempt or ridicule of anyone on the basis of religion.

The Panel determined that the advertisement did not discriminate against or vilify any person or section of the community on account of their religion and did not breach Section 2.1 of the Code.

The Panel 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 Panel noted the complainant's concern that the language in the advertisement was derogatory and offensive and not appropriate for children to hear.

The Panel noted the advertiser's response that the name 'Jesus' in itself is not blasphemous and its use in the advertisement is not showing contempt towards Jesus



Christ and it is not contrary to community standards.

The Panel noted that they had previously dismissed complaints about a number of advertisements which featured the phrases 'Oh My God' and 'Goddam' (0396/14, 0506/15 and 0513/18) and in these cases the Panel considered the phrases were used in a manner consistent with colloquial usage and were not likely to cause offence to the community in general.

Similarly, in the current advertisement the Panel considered that the name 'Jesus' used in a colloquial manner was consistent with everyday Australian vernacular and did not constitute language which was inappropriate in the circumstances or obscene.

In the Panel's view the advertisement did not contain language which is inappropriate in the circumstances and did not include strong or obscene language, and therefore did not breach Section 2.5 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaints.

