



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0223-21
2. Advertiser :	Southern Cross Austereo
3. Product :	Media
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	11-Aug-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This television advertisement is promoting the “Moonman in the Morning” breakfast show on Sydney radio station Triple M 104.9 FM. The Advertisement features the host, Lawrence Mooney, walking around the streets of Sydney. He encounters a bus driver who waves out of the bus calling out “Moonman! You...” to Mooney and smiling. The last word is obscured by the sound of the bus doors closing. Mooney is joined by co-host of the show, Jess Eva, and an office worker in the street smiles and excitedly calls out to them both “Moonman! You...”. The last word is obscured by a car horn. Mooney is then also joined by the third co-host, Chris Paige at the beach where a tradesman waves animatedly and calls out “Hey Moonman, you c-” but the last word is obscured by a dog barking. The hosts all wave at him and smile back. Eva laughs then explains to the others “I know what they’re trying to say”. We then cut to Mooney and co-hosts in the radio studio with Mooney announcing, “Strap in Sydney, it’s time for You Can’t Do That!”.

THE COMPLAINT

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

*The add was pretending to say an incredibly offensive swear word.
I cannot believe that it was allowed to be shown on tv at 7pm when children are still present.*



*As a woman I find this ad highly offensive.
Fair enough that they play this silly game on their radio station but putting it in the
add on tv is too far.
I'm shocked channel 10.*

*The suggestion of people saying " you c....nt". Especially when the ad is being shown
during the Olympic Games coverage at 5.30 p.m. when children are watching.*

*Even though the derogatory word is not used, it's heavily and clearly implied,
repeatedly*

This word is innately offensive, particularly to women and girls.

*I believe this advertisement is trying to imply an offensive word. The word ' can't ' is
used in a manner that I believe is inappropriate.*

THE ADVERTISER'S RESPONSE

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

*I refer to your letter dated 26 July 2021 regarding complaints (Complaints) made by
complainants and submitted to Ad Standards on 20 July 2021, 23 July 2021 and 24 July
2021. The Complaints concern an advertisement (Advertisement) by Southern Cross
Austereo promoting its "Moonman in the Morning" breakfast show on the Sydney
radio station Triple M 104.9 FM.*

*Since 18 July 2021, the Advertisement has been broadcast a total of 40 times across
the Seven and Ten television networks*

*Your letter indicates the Advertisement raises issues under section 2 of the AANA Code
of Ethics (Code).*

*We are satisfied that the Advertisement does not raise any issue under any part of
section 2 of the Code. We comment below in relation to each part of section 2.*

Part	Code requirement	Comment
2.1	not portray or depict material 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 Advertisement does not depict material which discriminates against or vilifies a person or section of the community on any of these grounds.



2.2	not employ sexual appeal in a manner (a) where images of Minors or people who appear to be Minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people	The Advertisement does not employ sexual appeal using Minors or people who appear to be Minors and is not exploitative or degrading of any individual or group of people.
2.3	not present or portray violence	The Advertisement does not present or portray violence.
2.4	not present sex, sexuality or nudity	The Advertisement does not present sex, sexuality or nudity.
2.5	not employ strong or obscene language	<p>The Advertisement does not employ strong or obscene language. Although you indicated that the Complaints relate to obscene or strong language, no such language is used in the Advertisement whatever. Only the innocuous word “can’t” has been obscured and is unable to be heard within the Advertisement. The “Moonman in the Morning” breakfast show has a well-known popular segment known as, “You Can’t ... Do That” which is referenced by the people acknowledging Mooney in the street. This is also a recurring catchphrase of Mooney’s that is used throughout the radio show. All people who call out to Mooney with this catchphrase do so in a pleasant and friendly nature, accompanied by a smile and a wave. The</p> <p>Advertisement clearly references the “You Can’t” radio segment, making clear to the audience that the word “can’t” could not be heard due to the various sounds interrupting those calling out to Mooney. The tone of the Advertisement is overwhelmingly light-hearted and jovial. Finally, we note the Advertising Standards Board has previously dismissed similar complaints in relation to advertisements in which strong language has been used or manipulated in a jovial and tongue-in-cheek manner.¹ Importantly, these previous determinations relate to instances where advertisements actually contain obscene and strong language, whereas this Advertisement does not.</p>
2.6	not depict material contrary to Prevailing Community standards on health and safety	The Advertisement does not depict material of this nature.
2.7	clearly distinguishable as an Advertising or Marketing Communication	The Advertisement is clearly distinguishable as such.



The Complaint does not fall within the remit of the AANA Code for Marketing & Advertising Communications to Children or the AANA Food & Beverages – Advertising & Marketing Communications Code.

For the reasons set out above, we request the Complaint be dismissed. We look forward to your determination. If you require any further information, please do not hesitate to contact me.

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 suggests strong language which is demeaning to women.

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

Section 2.1: Advertising or Marketing Communication 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 preference, 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
- Gender - male, female or trans-gender characteristics.

Does the advertisement portray material in a way which discriminates against or vilifies a person on account of gender?

The Panel noted the complainant's concerns that the advertisement implied the use of the "c-word" which is demeaning to women.

The Panel acknowledged that many members of the community would consider the "c-word" to be inappropriately strong, derogatory and demeaning language. However, the Panel noted that the "c-word" is not used in the advertisement. The Panel also considered that the concealed word is used in a positive tone with people who are smiling and being friendly.

The Panel considered that the advertisement did not depict or suggest women are deserving of unfair or less favourable treatment, and did not show women in a way which humiliates, intimidates, incites hatred, contempt or ridicule on the basis of gender.

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 gender, the Panel determined that the advertisement did not breach Section 2.1 of the Code.

Section 2.5: 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 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... Advertising which sufficiently beeps or censors language so that it cannot be understood will not be seen to be strong or obscene language.”

The Panel acknowledged that many members of the community would consider the “c-word” to be inappropriate and unacceptably strong language, however noted that the word used in the advertisement, which is beeped out, is actually “can’t”.

The Panel considered that to understand the implication of the language in the advertisement, the viewer would already need to be aware of the swear word, and considered that most young children would be unlikely to make this connection.

The Panel noted that the word “can’t” is clearly heard at the end of the advertisement, and any ambiguity about the unheard phrases in the advertisement is cleared up.

The Panel noted that the advertisement did not actually contain strong or obscene language, and the use of the word “can’t” in a suggestive way was not inappropriate in the circumstances of advertising a radio segment called, “You can’t say that”.

Section 2.5 conclusion

The Panel determined that the advertisement did not breach Section 2.5 of the Code.

Conclusion

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaints.