



Ad Standards Community Panel
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AdStandards.com.au

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Case Report

1. Case Number :	0234-20
2. Advertiser :	Galderma Australia Pty Ltd
3. Product :	Health Products
4. Type of Advertisement/Media :	TV - On Demand
5. Date of Determination	12-Aug-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.5 Language

DESCRIPTION OF ADVERTISEMENT

This TV on Demand advertisement features two teenage girls sitting on some stairs looking at their phones. The first girl offers the other some chocolate. The second girl's response is to decline, indicating that "chocolate causes acne". The ad then shows the questioner's foot, which has the text 'Bullsh*t' on the sole of the shoe. There is a drawn out melodic voice-over saying "bullshit" as the ad pans out to a male on the steps below, who says the single word "bullshit" with a slight shake of his head.

THE COMPLAINT

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

Language. The use of the word bullshit. In the on-screen image on her foot, it has an asterix. This is mildly inappropriate. When the male in the advertisement says the word, it is not acceptable.

THE ADVERTISER'S RESPONSE



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

Galderma engages the services of Reload Media for both creative content development and the purchasing of digital media advertising space. Galderma approved advertising content is submitted by Reload Media to various online platforms.

For the Benzac advertisement (video), Reload Media purchased a digital media package via DV360 (a Google owned platform). The Benzac activity was purchased in an auction environment and inventory selected based on budget and behavioural criteria. Review of the video was performed by Google (DV360) through ad exchanges (AppNexus and Google Ad Manager). These exchanges screen for crude or offensive language and 'family safe' content, as part of acceptance criteria.

Refer:

*https://support.google.com/displayvideo/answer/3056029?hl=en&ref_topic=3055967
https://support.google.com/displayvideo/answer/3055968?hl=en&ref_topic=3055967*

Once screening is passed and the Benzac creative approved, these exchanges then access/fill placement opportunities such as 7plus.google. There is no media schedule generated by this route.

7Plus, as a 'premium' publisher, normally fills advertising spots with direct buys. In this scenario, CAD review would be required before video approval is granted. However, use the 'self-serve buy' method to fill media placements via DV360 did not require CAD or 7Plus manual review the video, only Google/Microsoft screening. The utilization of the open auction system to fill 7Plus advertising spots signifies that 7Plus is comfortable with the standards applied by routine screening and additional measures are not required.

It should be noted that the other online channels (Facebook, Instagram) that approved the Benzac video had similar screening criteria, indicating a commonality of applied standards across different advertising channels that supports the overall consumer acceptability of the Benzac video.

(A) Application of AANA Advertiser Code of Ethics, Section 2

In the consumer complaint, the complainant specifically objected to the use of the word "bullshit", a potential breach of the AANA Advertiser Code of Ethics, Section 2.5. Galderma does not consider the Benzac video to be in breach of Section 2.5 nor any other component of Section 2. Each of these sections are addressed as follows.

2.1 - Discrimination or vilification



The video shows two girls, one of colour and one white, sitting on the steps. There is also a Caucasian male. The impression of friendship between the girls (as implied by the sharing of food) reinforces positive inter-racial social relations.

Although the girl of colour and male both disagree with the white girl's opinion, neither call her out on it directly, preserving respect for her opinion but 'correcting' the myth to the audience. Therefore, there is no discrimination nor aspects of humiliation or intimidation in the video.

2.2 - Exploitative or degrading

There is no exploitation of subjects, nor degrading content. The persons shown in the video are typical or average in looks, clothing, demeanour and language and are not objectified in any manner. They are considered to be representative of the teen population.

2.3 – Violence

There is no violence shown nor suggestions of menace.

2.4 - Sex, sexuality and nudity

Sex and nudity are not shown and there are no sexual overtones present in the ad.

2.5 – Language

Acne is one of the most prevalent skin conditions, affecting more than 85% of teenagers.¹ As this is the primary demographic group relevant to anti-acne treatment advertising, the content of such advertising should be relatable to teens. Swearing is common amongst teenagers, therefore mild level profanities such as "bullshit" are appropriate in these circumstances.

As per AANA Code of Ethics, Practice Note, July 2018 (Section 2.5 Language):

Words and phrases which are innocuous and in widespread and common use in the Australian vernacular are permitted (provided they are used in a manner consistent with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner). Examples are "bugger", "shit", "pissed off", "crap", "bloody", "cheap bastard", "bum", and "balls".

Galderma does not consider "bullshit" to be substantially different from "shit", which is indicated in AANA guidelines as being acceptable language in the right context. Furthermore, the word "bullshit" is spoken confidently but quietly, not presented aggressively or associated with particular disdain. Therefore, Galderma is of the opinion that the Benzac video meets the requirements of Section 2.5 of the AANA Code of Ethics.



2.6 - Health and Safety

Benzac AC Gel is a therapeutic good (listed medicine) for the treatment of acne. The advertisement refers to the acne indication as required by the Therapeutic Goods Advertising Code 2018 (TGAC), Section 13(2)(b).2

Other than the reference to acne, there are no other health representations in the video. Acne itself is not discussed, nor are its significant psychological and physical impacts shown.

Safety related statements, as required under TGAC Section 13 (2)(c), 13(6) and 13(7), are included in the advertisement:

ALWAYS READ THE LABEL. FOLLOW THE DIRECTIONS FOR USE. IF SYMPTOMS PERSIST, TALK TO YOUR HEALTH PROFESSIONAL.

No health risk scenarios nor suggestions of bullying are present in the video.

2.7 - Distinguishable as advertising

The video is clearly distinguishable as product advertising. The pack shot and advertising taglines are prominently displayed and the ad content unlikely to be misinterpreted as anything other than a product advertisement for the treatment of acne.

(B) AANA Code for Advertising & Marketing Communications to Children

It is noted that the definition of 'children' in the AANA Code for Advertising & Marketing Communications to Children differs from that specified in the Therapeutic Goods legislation. The AANA defines a 'child' as a person 14 years old or younger, whereas in the TGAC 2018 a child means an individual under the age of 18.

Benzac AC Gel is permitted to be advertised for acne treatment to persons under the age of 18, in accordance with Schedule 2 of the TGAC 2018. The Benzac video targets older teens, as represented by the subjects selected for the ad. As DV360 is a Google product, the minimum age targeting is 18.

In consideration of the definition of 'children' in the AANA Code for Advertising & Marketing Communications to Children, the Benzac video does not target children in its advertising.

We trust that this response confirms the compliance of the Benzac advertisement with the relevant AANA advertising codes and look forward to notification of the Community Panel's deliberations.



References:

1. Ayer J and Burrows N. Acne: More than Skin Deep. *Postgrad Med J* 2006;82:500–506. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2585707/pdf/500.pdf> (accessed 30/7/20)
2. Therapeutic Advertising Code 2018. Available at: <https://www.legislation.gov.au/Details/F2018L01524>

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 complainant’s concerns that the advertisement depicts a male saying “bullshit” and that such language is unacceptable.

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

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 Practice Note to the Code which states:

“Words and phrases which are innocuous and in widespread and common use in the Australian vernacular are permitted (provided they are used in a manner consistent with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner). Examples are “bugger”, “shit”, “pissed off”, “crap”, “bloody”, “cheap bastard”, “bum”, and “balls”.”

The minority of the Panel noted the advertiser’s response that the advertisement is directed towards teenagers as they are the primary demographic for anti-acne treatments. The minority of the Panel considered that the word being used by a teenage boy is inappropriate.

The minority of the Panel considered that there is a strong focus on the word “bullshit” because of its drawn out inflection and the on-screen text stating “bullsh*t”. The minority of the Panel considered that this was a depiction of strong language that was inappropriate for viewing by a broad audience.

The majority of the Panel considered that the word “bullshit” is commonly used to signify a belief that something is nonsense or rubbish, and that the use of the word in the advertisement was consistent with this theme.



The majority of the Panel considered that such language is common with both teenagers and adults. The majority of the Panel noted a card game commonly referred to as “bullshit”, a segment titled “I call bullshit” on popular radio program Kennedy and Molloy, and a television program titled “Penn & Teller: Bullshit!”.

The majority of the Panel noted that in the advertisement the word is not used in an aggressive or demeaning manner, but rather is used to dispel a common myth about acne.

On balance, the Panel considered that the advertisement did not use strong or obscene language and that the language was not inappropriate, and 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 Panel dismissed the complaints.