



**Ad Standards** Community Panel  
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Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	Case Number	0242/18
2	Advertiser	Volkswagen Group Australia Pty Limited
3	Product	Vehicle
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	23/05/2018
6	DETERMINATION	Dismissed

## ISSUES RAISED

2.5 - Language Inappropriate language

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features two men meeting at a boat yard with one pulling up in a vehicle. The two men then go on to talk about various features of the vehicle, jumping to different points in time throughout the day, with the friend of the vehicle owner appearing to be impressed. This culminates in the vehicle owner saying that he got it with a great finance offer, with the friend expressing how impressed he is. The questions/statements about the vehicle are met with a "yeah" response with varying tone of voice each time.

## THE COMPLAINT

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

*I object the use of subtle seagull squawk as use of swearing - not good for children to hear - not necessary and not responsible advertising.  
A bird noise is used in the ad to appear to swear / mask swearing in its punchline  
"xxxx" yeah !*

*During the tag line a sound effect designed to be a seagull squak actually sounds like it*



says “fuck yeah”.

*This ad has appeared at all times of the day and night.*

## **THE ADVERTISER’S RESPONSE**

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

*Compliant Reference Number 0242/18*

*Dear Sir/Madam,*

*We refer to your letter dated 4 May 2018 enclosing a complaint (Complaint) received in relation to Volkswagen Group Australia’s (Volkswagen) ‘EOFYEAH!’ brand advertisement (Advertisement).*

*Volkswagen takes its legal responsibilities under Competition and Consumer Act, AANA Advertiser Code of Ethics and the Federal Chamber of Automotive Industries (FCAI) Voluntary Code of Practice for Motor Vehicle Advertising very seriously. Further, Volkswagen adheres to the Commercial Advice Division (CAD) pre-approval process to ensure approval classification before the commercial is aired. This reflects Volkswagen’s robust commitment to complying with advertising and motor vehicle safety regulations.*

*The Advertisement*

*The Complaint relates to Volkswagen’s 30 second ‘End of Financial Yeah!’ TV Commercial (TVC), which portrays two friends meeting up at a boat yard. One of the characters pulls up in his new Amarok V6 and his friend is impressed. The two friends then go on to talk about various features of the vehicle, jumping to different points in time throughout the day, with the friend of the Amarok owner becoming more and more impressed as they talk. This culminates in the Amarok owner telling him at the end that he got it with a great finance offer, with the friend again expressing how impressed he is. The TVC then highlights the name of the retail campaign as Volkswagen’s “End of Financial Yeah! Sale”, and the way that the two friends talk to each other throughout the ad is designed to tie into this theme, with the questions/statements eliciting a “yeah” response with varying tone of voice each time.*

*A digital copy of the TVC and the script has been uploaded on the Advertising Standards Bureau’s online form..*

*The advertisement was approved by CAD with Key Number 2177100 and CAD rating of “J”. The advertisement was published and broadcast in all States/Territories across Australia and made available online via Volkswagen’s social channels including*



*Facebook and YouTube which commenced on 15 April 2018 and scheduled to conclude on 24 June 2018.*

#### *Relevant Legislation and Regulations*

*The relevant laws and standards relating to the complaints are as follows:*

*The AANA Advertiser Code of Ethics (Code); and  
The AANA Advertiser Code of Ethics (Practice Notes).*

*In relation to section 2 of the AANA Code of Ethics, the advertisement does not portray people or depict material in a discriminatory manner. There is no sexual appeal, which is exploitative and degrading of any individual or group of people. There is no portrayal of violence in any way whatsoever. There is no inappropriate language used in the Advertisement. The Advertisement does not portray any acts that are contrary to Prevailing Community Standards on Health and Safety.*

*The Complaint is made pursuant to Section 2.5 of the Code, which states 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.*

#### *Volkswagen's Response to the Complaint*

*The Complaint raises concerns that one of the scenes in the Advertisement show a seagull squawking in the background, masking a swear word sound (the Scene). The Complainants suggest that this is inappropriate.*

*While Volkswagen respects the personal opinion of the complainant, Volkswagen strongly believe that the Advertisement is not offensive and in full compliance with the AANA Code of Ethics. The advertisement does not use strong or obscene language. As one of the characters in the TVC is telling his friend that he bought the Amarok V6 with what he implies was a great finance offer, a seagull squawks as his friend is responding. As a result, what is heard is "&lt;seagull squawk>", "yeah." This occurs again as the voiceover at the end of the advertisement says "... plus a finance offer that will make you say &lt;seagull squawk> yeah." Whilst the strategic placement of the seagull squawk at these times is an implied witticism, which is paradoxical (seagulls cannot speak) but relevant to the target audience, at no time during the advertisement is strong or obscene actual language used.*

*Furthermore, the TVC received a "J" classification (Parental Guidance/Warning) from CAD; which means it may be broadcast at any time, except during P and C programs or adjacent to P or C periods, and the media has accordingly been purchased with these guidelines in mind. With a clearly defined target audience of men aged 25-54, at no*



*time would our media buy target children.*

*The Advertisement was reviewed by our internal Legal team as well as by the Commercial Advice Pty Ltd (CAD) prior to airing, Volkswagen maintains that the advertisement is within the AANA Code of Ethics, community and regulator standards, and that a reasonable person would not have grounds for complaint as it does not display any notion of offensive language. We therefore request this complaint be dismissed.*

*We look forward to hearing from you following a decision by the Ad Standards Board.*

## **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’ concern that the advertisement contains inappropriate language.

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 television advertisement features two men having a conversation about a new vehicle. The conversation consists of one of the men making a statement or asking a question and the other man responding with ‘yeah’. The advertisement is promoting the ‘end of financial yeah’ sale, and towards the end of the advertisement there are two points where a seagull squawk plays just before the ‘yeah’.

The Panel noted the complainants’ concern that the seagull squawk makes it sound like the phrase ‘fuck yeah’ is used, and that this is inappropriate.

The Panel noted the advertiser’s response that the strategic placement of the seagull squawk is an implied witticism and at no time is strong or obscene language actually used.

The Panel noted that the advertisement received a J rating by CAD (parental guidance recommended and not in children’s programs) and was aired at a time appropriate to the rating ([http://www.freetv.com.au/media/CAD/Placement\\_Codes.pdf](http://www.freetv.com.au/media/CAD/Placement_Codes.pdf)). The Panel considered that the relevant audience for this advertisement would likely be broad and include children.



The Panel considered that the sound made by the seagull is clearly a squawk and does not sound like the word 'fuck'.

The Panel considered that the phrase 'fuck yeah' may be implied, however considered that the word 'fuck' does not actually appear in the advertisement. The Panel considered that this advertisement is playing on the audience's knowledge of a common phrase, and considered that the language is implied and not overt.

The Panel noted that it had consistently determined that advertising which beeps or obscures offensive language will usually not breach Section 2.5 of the Code provided that the language is not used in an aggressive manner, and that the offensive terms are sufficiently obscured (0231/18, 0491/17, 0324/16, 0068/14).

The Panel considered in the current advertisement that the language alluded to was not used in an aggressive manner and did not contain the word 'fuck'.

Consistent with previous determinations, the Panel considered that the advertisement did not use language which was inappropriate in the circumstances and did not contain strong or obscene language 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.

