



Case Report

1	Case Number	0338/10
2	Advertiser	Retail Food Group
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	25/08/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

2.5 - Language Use appropriate language

DESCRIPTION OF THE ADVERTISEMENT

A young male barista is preparing a coffee. He hands it over to an elderly female customer who takes a sip and then says, "That's freakin' awesome!". A male voice over then describes the "unexpectedly great coffee" available at Donut King and we see a screen shot of a cup of coffee and the text "Donut King. Regular coffee and warm mini jam ball \$4.50."

THE COMPLAINT

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

I taught my children not to swear and use awful words. They were shocked when they saw the old granny saying it.

Think you should not put on things in your adverts that make children think it's ok to say that word. Society is getting worse and worse no one cares anymore.

When I was young I got a clip even if I said bugger. Please don't put it on anymore.

THE ADVERTISER'S RESPONSE

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

Clause 2.5 of the AANA Advertiser Code of Ethics requires that “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.”

The basis of the complaint is that the grandmother depicted in our TVC uses a swear word – “friggin” – to describe the taste of our Royal Bean Coffee. Firstly, may we point out that she does not in fact say “friggin” – the word she actually uses is “freakin” (which will be confirmed by referring to the script and TVC mpeg attached). Secondly, “freakin” is not a swear word. It is derived from the English language – the word “freak” – and in contemporary Australia, is a safe and acceptable way to describe something unusual about somebody’s appearance, behaviour, an event, or a reaction. For example, “that test was freakin’ tough” or “that concert was freakin’ amazing”, or “he was really freakin’ out”. The complainant goes on to express concern about children being exposed to the commercial and the use of this word. As earlier advised, the commercial received a PG rating from CAD, which means it will only ever be placed in programming that requires parental guidance. As such, it would be hoped that should a child see our PG rated commercial in a PG programme, and misinterpret “freakin” as a swear word, a parent would be on hand to clarify and explain.

Further in recognition of possible public concern over the word “freakin” and despite the word not being regarded as a “swear word,” the advertiser paid special attention to the programs during which the advertisement was to be shown to ensure that the particular advertisement is not shown during programming particularly targeted to children.

We note that there have been several previous complaints to the Advertising Standards Bureau relating to the word “freakin”, all of which have been dismissed, including a Vodafone advertisement in September 2006 with reference to the phrase “Stick that freakin’ phone up your...”. The current advertisement was internally approved for publication by the advertiser on the basis of the ASB’s prior determinations.

We do not believe that the current matter warrants any determination different from the previously dismissed complaints.

Remainder of Section 2 of the AANA Advertiser Code of Ethics

No issue was raised in the Complaint in relation to any other Clause in Section 2 of the AANA Advertiser Code of Ethics. We believe that our advertisement is fully compliant with the Code.

Should the ASB have any issue with the advertisement arising from any other Clause, we seek the opportunity to provide a further response if required.

Donut King’s Advertising Policies

Donut King takes very seriously any complaints we may receive from consumers, or indeed, authorities such as yourself in connection with our business operations.

Furthermore, we advise that Donut King is a brand owned and managed by the Retail Food Group Limited (‘RFG’) group of companies.

RFG is cognisant of, and views extremely seriously, its legal obligations and corporate responsibilities in connection with the operation of its franchise systems (including obligations arising under the various voluntary advertising standards codes).

As an indication of this, RFG employs a large internal legal division with expertise in connection with the various advertising standards codes and other trade practices laws, to ensure that all aspects of the group’s operations are compliant with legal requirements.

All advertising and marketing materials are subject to stringent review by our legal division prior to release in order to ensure compliance with all relevant laws, regulations and codes.

In relation to the present advertisement, the advertiser was aware of the potential for concern

and took steps to ensure that the advertisement complied with the ASB's determinations in previous similar cases.

We trust that we have provided all of the required information to assist the Board with its assessment, and urge the ASB to dismiss the Complaint.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code") and the AANA Food and Beverages Advertising and Marketing Communications Code (the "Food and Beverages Code"),

The Advertising Standards Board ("Board") considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted the complainant's concerns that the advertisement contains inappropriate language.

The Board reviewed the advertisement and noted the advertiser's response.

The Board 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 and strong or obscene language shall be avoided".

The Board noted the advertiser's response that the language used by the lady in fact is not the word "friggin" – the word she actually uses is "freakin". The Board agreed that the word "freakin" is derived from the English language – the word "freak" – and in contemporary Australia is commonly used to describe something unusual about a situation, behaviour, an event, or a reaction, and is not generally considered strong or obscene language. The Board considered that the use of the word 'freakin' was not inappropriate in the context of the advertisement.

The Board determined that the advertisement did not use language that was inappropriate in the circumstances or strong or obscene and was not in breach of Section 2.5.

Finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaint.

