



Case Report

1	Case Number	0338/17
2	Advertiser	Bayer Australia Ltd
3	Product	Other
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	09/08/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement promoting sheep lice and fly treatment features Sam Kekovich standing in a field next to a fence and lookout hut keeping watch on the sheep and the threat of a lice infestation. Sam then goes on to say that the advertised product has a 100% lice knockdown and four weeks' protection.

THE COMPLAINT

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

The advertisement contains the words bloody and bugger, firstly most of the farmers I contact do not speak like this in front of women or children. This ad is aired at times little ones would be in the lounge room. I personally find this language offensive also. It is not something you would ever hear in my house. I do not like suddenly hearing it.

THE ADVERTISER'S RESPONSE

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

We refer to your letter regarding a consumer complaint to a television commercial for Avenge® lice control for sheep, which raised issues under section 2 of the AANA Advertiser Code of Ethics.

The complainant appeared concerned about the impersonation of a farmer, and in particular, the “farmer’s” use of the words “bugger” and “bloody”. As you will see from the video and the attached files, the word “bloody” is not used in the commercial. Furthermore, for the sake of clarity, the actor in the commercial is impersonating a border policeman, not a farmer.

Bayer acknowledges that the word “bugger” is used in dialogue in the commercial. The key question is whether the use of that word is in breach of section 2.5 of the AANA Advertiser Code of Ethics, 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.”

Bayer respectfully submits that the word “bugger” does not fall within the classification of “strong or obscene language”. It is rather an Australian colloquialism for something which is a nuisance (referring to lice-carrying sheep), as defined in the website www.slang-dictionary.org/Australian. Other words in the Slang Dictionary are rated as offensive, derogatory or racist, whereas “bugger” does not attract any such rating.

A search of the Sydney Morning Herald website www.smh.com.au shows that the word “bugger” appears in 1,442 online articles, and a corresponding search of The Australian website www.theaustralian.com.au shows that the word appears in 4,070 online articles. It is used by commentators, politicians, journalists, amongst others, and is not meant to cause affront when it is used, but if anything is a term of endearment. In the context of the Avenge® commercial, it was deliberately used to show that the border policeman was Australian, protecting the “borders” (or boundaries) of farms from lice infestation. Furthermore, as the target audience for the commercial is Australian males over 40, it is expected that they would understand and appreciate this context and the subtle humour used.

The Australian Standards Bureau has previously determined that use of the word “bugger” falls under “Consistently Dismissed Language” in relation to complaints, in which the word “bugger” is expressly used as an example:

“Australian Colloquialisms (bloody, bugger etc) used in a manner that is consistent with generally accepted usage and not used in an aggressive, threatening or demeaning manner. For example the use of the word ‘rooted’ in the 2009 Sam Kekovich ad for Australia Day (27/09), the use of the words ‘bloody’ and “friggen” in a radio ad for Sidchrome tools (303/09) and the use of the word ‘hell’ in a Lynx ad (542/09).”

We trust that the information provided in this response will alleviate any concerns that the Australian Standards Board may have had over the language used in Bayer’s Avenge® commercial and hope to receive a favourable response following the Board’s pending meeting.

Please do not hesitate to contact us should you require any further information.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concern that the advertisement uses language which is offensive and not appropriate for children to hear.

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 (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided”.

The Board noted that the advertisement is promoting lice and fly protection product for sheep featuring Sam Kekovich in a field next to a fence and in a lookout talking to the camera about the advertised product ‘Avenge.’ Mr Kekovich uses the word ‘bugger’ twice in the advertisement referring to the lice and other pests. The use of the word is as follows: “those little buggers will be in here quicker than you can say Waltzing Matilda.” “I see you too, you lousy bugger.”

The Board noted the complainants concern that the advertisement uses the word ‘bloody’ and ‘bugger’. The Board reviewed the advertisement and noted the advertiser’s confirmation that the advertisement does not use the word ‘bloody.’

The Board noted the Macquarie Dictionary definition of the word bugger:

“4. Colloq. A nuisance, a difficulty; something unpleasant or nasty.” The Board noted that the advertisement uses the word bugger to refer to lice and flies that are a nuisance and unpleasant to sheep and farm animals.

The Board noted it had previously dismissed matters where the word bugger was used in a similar manner (0221/13 – The SEO Company and 0248/11 - Carworks). Consistent with these cases the Board considered the generally accepted usage and determined that in this advertisement the word was not used in an aggressive, threatening or demeaning manner.

In the Board’s view, the use of the word ‘bugger’ in the context of a pesticide product was not strong or obscene language and did not breach Section 2.5 of the Code.

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

