



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0398/17</b>
<b>2</b>	<b>Advertiser</b>	<b>Bitchen Boys</b>
<b>3</b>	<b>Product</b>	<b>House Goods Services</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Radio</b>
<b>5</b>	<b>Date of Determination</b>	<b>13/09/2017</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

2.5 - Language Inappropriate language

## DESCRIPTION OF THE ADVERTISEMENT

This radio advertisement features two female and one male voiceover taking turns in raising concerns about the state of a driveway; potholes and dust in a road; and the mud in a car park. Another male voiceover interjects each time with the words “stop your bitchen”, and finishes off the advertisement by outlining the bitumen and asphalt repair services provided by the Advertiser.

## THE COMPLAINT

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

*I find the term "Stop your bitching" not only inappropriate but offensive and to think that supposed professionals find this acceptable just as offensive.*

## THE ADVERTISER'S RESPONSE

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

*ASB COMPLAINT REFERENCE NUMBER: 0398/17*

*ADVERTISEMENT BY BITCHEN BOYS*

*I refer to your letter regarding a complaint (Complaint) submitted to the ASB. The Complaint concerns an advertisement by Bitchen Boys (Advertiser) which promotes the Advertiser's bitumen and asphalt repair business (Advertisement).*

*The Advertisement was broadcast on Triple M Coffs Harbour 106.3 FM, a radio station of SCA. As the creator and broadcaster of the Advertisement, we respond as follows on behalf of the Advertiser.*

#### *Description of the Advertisement*

*The Advertisement was created by SCA in response to a brief by the Advertiser. The Advertisement was approved by the Advertiser in August 2017.*

*The Advertisement runs for 30 seconds and promotes the Advertiser's bitumen and asphalt repair services for car parks, driveways and roads.*

*The Advertisement involves two female and one male voiceover taking turns in raising concerns about the state of a driveway; potholes and dust in a road; and the mud in a car park. Another male voiceover interjects each time with the words "stop your bitchen", and finishes off the advertisement by outlining the bitumen and asphalt repair services provided by the Advertiser.*

#### *Broadcast of the Advertisement*

*The Advertiser had booked 36 spots in August 2017 for the Advertisement to be broadcast between 6.00am and 12.00am (run of station basis) on Triple M Coffs Harbour 106.3 FM. It was broadcast at the times outlined in the table attached, before being taken off air pending the outcome of this*

#### *Complaint.*

#### *Section 2.5 of the AANA Code of Ethics*

*We understand that the Complaint was made under section 2 of the AANA Code of Ethics (the Code), specifically section 2.5 (Inappropriate, strong, or obscene language). Section 2.5 of the Code sets out that Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate to the relevant audience and medium). Strong or obscene language shall be avoided.*

*It is our submission that the Advertisement does not breach section 2.5 for the following reasons:*

*Bitchen Boys is a registered Australian business name (ABN 28 772 059 281) with the Australian Securities and Investments Commission (ASIC). Prior to registration of a business name, ASIC conducts a number of checks including whether a name is "undesirable" by reason of being offensive to the public or any section of the public. As ASIC permitted registration of the word "bitchen", the Advertiser was of the understanding that use of the business name in an advertisement would not offend.*

*The Advertisement was played on Triple M Coffs Coast (106.3 FM). According to the GfK*

*Australia Survey #1 of 2017, of the average 24,700 people who tune into the station each week, 15,500 (62.8%) are aged 40+. The audience is also 52% male on average. The majority of the Triple M Coffs Harbour audience are therefore mature, male adults. Taking into account the target demographic of the station, we believe that the language used in the Advertisement would not be considered inappropriate, strong or obscene by the majority of the audience.*

*The Advertiser specialises in bitumen, asphalt and pot hole repairs, bitumen resealing, and driveway and car park repairs. We note the distinct similarity between the word “bitchen” and the word “bitumen”. We suggest that the name of the Advertiser, and the language used in the Advertisement, were chosen as a play on words based on the bitumen services provided by the Advertiser.*

*The word “bitchen” has numerous meanings and connotations. Whilst the word “bitch” by itself refers to a female dog, in modern usage the slang term “bitch” has developed a variety of definitions depending on the social context in which it is used. The term “bitchin”, or “bitchen” as in this case, arose in the 1950s to describe something found to be “cool” or “rad”. In modern parlance, the term “bitchen” is a slang word that can have both negative and positive connotations, either as something remarkably bad (for instance complaining about a driveway that needs fixing) or remarkably good or high quality (the services provided by the Advertiser). In this instance, the name of the Advertiser and the term used in the Advertisement is “bitchen” not “bitching” and in these particular circumstances and context, and taking into account the dominant audience, we do not consider this to be strong or obscene language.*

*Even if it were found that the word “bitchen” is derogatory, we submit that the language is neither strong or obscene when considering the tone of the Advertisement as one of light banter. The prevailing intention is that of humorous word play, rather than strong, disparaging, pejorative or coarse language.*

*A reasonable person would, in our view, appreciate that the Advertisement was intended as light-hearted fun, and reflective of the business name of the Advertiser and services that they provide.*

*For all of the above reasons, it is our submission that the Advertisement does not breach section 2.5 of the Code.*

*Other sections of the Code*

*We consider that the Advertisement does not raise any issues under the other sections of the Code.*

*In particular, the Advertisement:*

*does 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 (section 2.1);*

*does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people (section 2.2);*

*does not present or portray violence (section 2.3);*

*does not present sex, sexuality or nudity (section 2.4);*

*does not depict material contrary to Prevailing Community standards on health and safety (section 2.6); and*

*was clearly distinguishable as a message paid for by the Advertiser to promote its asphalt and bitumen repair services.*

*Conclusion*

*For the reasons set out above, we submit that the Complaint should be dismissed.*

*We look forward to the ASB's determination.*

## **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 complainant's concerns that the advertisement features the phrase, "stop your bitchin'" which is offensive and inappropriate.

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 this radio advertisement features people complaining about different road surfaces and a voiceover telling them to stop bitching about it and to contact the Bitchen Boys to fix the problems.

The Board noted the use of the word 'bitching' in the advertisement. The Board noted that the word 'bitch' is defined in the Macquarie Dictionary as:

"n. 1. a female dog. 2. Colloq. a woman, especially a disagreeable or malicious one. 3. Colloq. a complaint"

The Board considered that the use of the term 'bitching' in the advertisement is clearly in the context of the third Macquarie Dictionary definition as it is used after people have complained about something. The Board noted that 'bitch' is also an offensive term for a woman but considered that although two of the people complaining in the advertisement are female, there is also a man complaining and in the Board's view there is no suggestion that the word 'bitching' is being used in an offensive or derogatory manner towards the women

but rather it is being used to describe their, and the man's, complaints.

The Board noted the repetitive use of the word 'bitching' and considered although this word of itself is not strong or obscene language it is a word that some people may find to be inappropriate for use on the radio. The Board noted the manner in which the word 'bitching' is spoken and considered it is not used in an aggressive manner. The Board noted the advertiser's name is Bitchen Boys and considered that the use of the word 'bitching' is intended to be a play on this name.

Overall the Board noted that advertisers should take care when using language which, although part of the common Australian vernacular, would still be considered offensive by some members of the community but considered that in this instance the manner in which the word 'bitching' is used in the advertisement is not strong or obscene and is not inappropriate in the context of an advert for a business called Bitchen Boys.

The Board 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 Board dismissed the complaint.