



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0442/18
2	Advertiser	Domino's Pizza Australia Pty Ltd
3	Product	Food / Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	10/10/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Race
- 2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

The television advertisement is for Domino's New Yorker Big Pepperoni pizza. It shows New Yorkers describing what makes a New Yorker style pizza. Towards the end of the advertisement, two men are talking about the deal and one of them says 'no f#@sing way' with a horn sound effect obscuring the word.

THE COMPLAINT

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

offensive racial stereotyping

At the end of the ad the male says "that's @#&%\$%! crazy" implying the "f" word and it is beeped out in the ad. I have children in the house and quite frankly find this ad utterly disgusting as my 14 year old knew what was being implied and could not believe this could actually be allowed on television at the times it's being aired (shouldn't be allowed to air full stop in my opinion).



2 coloured people swearing even though it is beeped out, it is clear that it is a swear word.

The advertising included beeped expletives or implied expletives that were beeped. Very unnecessary and should not be aired at that time especially during a family show.

*At the end of the ad the expletive f**k is clearly used, but beeped over. This ad is playing in prime time family viewing and pizza is a favourite take away food for children...ads should not have to have a PG rating! The use of foul language is prevalent enough, but in an ad for pizzas it should be banned.*

THE ADVERTISER'S RESPONSE

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

Firstly, thank you for providing Domino's with the opportunity to respond to the complaints regarding the Advertisement. Domino's takes its responsibility as an advertiser very seriously and encourages any feedback from the community to better understand and respond to any issues or concerns that may be raised in connection with our advertisements.

We look to respond to all the complaints provided simultaneously while carefully considering the Advertisement in light of the provisions contained within the AANA Code of Ethics (the AANA Code), particularly Section 2.5.

In summary, our assessment concludes that the Advertisement does not breach the AANA Code on the grounds set out below.

The AANA Code

We note that the ASB has identified Section 2 as being the relevant section that Domino's may have breached. As requested in your letter, we have addressed all parts of Section 2 of the AANA Code as follows:

Section 2.1 – Discrimination or vilification

Domino's does not believe that the Advertisement portrays people or depicts material in a way which discriminates against or vilifies any person or section of a community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

Section 2.2 – Exploitative or degrading

Domino's does not believe that the Advertisement employs sexual appeal which is exploitative or degrading of any individual or group of people in any manner



whatsoever.

Section 2.3 – Violence

Domino's does not believe that the Advertisement presents or portrays violence in any manner whatsoever.

Section 2.4 – Sex, sexuality and nudity

Domino's does not believe that the Advertisement displays any sex, sexuality or nudity that is not only not sensitive to the relevant audience, but in any manner whatsoever.

Section 2.6 – Health and safety

Domino's does not believe that the Advertisement depicts any material contrary to prevailing community standards on health and safety.

Section 2.7 – Distinguishable as advertising

Domino's does not believe that the Advertisement is not clearly distinguishable as advertising and is relevant to its audience.

Section 3 – Further Codes

We further note that the AANA Code also incorporates the AANA Code for Advertising and Marketing Communications to Children and AANA Food and Beverages Marketing and Communications Code (Further Codes). As our products are likely to also come within the scope of these Further Codes, we confirm that these Further Codes have also been considered and we do not believe that any section within those Further Codes have been breached by the Advertisement in any form.

Section 2.5 – Language

Section 2.5 of the AANA Code provides that:

"Advertising or Marketing Communication 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"

Section 2.5 of the AANA Code is the most relevant section to be addressed in this response as the dominant concern raised in the complaints was in relation to a word spoken at the end of the advertisement that was both beeped with a sound effect and blurred in the footage.

*The Advertisement was highlighting our new New Yorker pizza range is only \$14.95 delivered (limited time only), which is substantially cheaper than our traditional, standard minimum delivery order requirement of \$22.00. The individual in the Advertisement therefore comments that this price is *"*BEEP* crazy"*, indicating an incredulous reaction to change.*



We note that the word that was beeped and pixelated in the Advertisement was in fact the word “freaking”. The word “F@%king” or any other obscenity was not actually used, nor would Domino’s ever use obscene language in its advertising. We have used language which is appropriate in the circumstances and have avoided strong and obscene language, ensuring compliance with Section 2.5 of the AANA Code.

We enclose a copy of the original footage of the Advertisement confirming that “freaking” was the word spoken by the individual for your reference.

*The scene of the individual stating “that’s *BEEP* crazy” was intended to illustrate the new and substantially cheap price of the product in a light-hearted manner. The statement was not in an aggressive context.*

We chose to not only use a car horn sound effect to obscure the word, but also chose to pixelate the mouth of the individual to ensure the term was sufficiently disguised and so that it was not clear what was being said.

It should be noted that the Advertisement is in fact part of a two-part series of advertisements for our New Yorker Range pizzas. In the related advertisement, an elderly lady is the one that instead states, “that’s freaking crazy” and the word “freaking” is also sufficiently disguised (the Related Advertisement). A copy of the Related Advertisement is enclosed for your reference.

We highlight that the Advertising Standards Board (the Board) have previously considered in case 0129/12, that although the simultaneous use of a car horn with an individual saying a word is an intended reference to an obscene word, the actual obscenity was not used and the term itself was not strong or obscene. In that case the individual who had their words obscured was a young child and the Board concluded that the advertisement was not in breach of Section 2.5 of the Code.

We consider that the Advertisement should be considered the same as it was in case 0129/12, in that although the use of a car horn simultaneously with an individual saying a word could be considered as a reference to an obscene word, the actual obscenity was not used, and the term “freaking” is not strong or obscene.

It should finally be noted that the Advertisement received a G Card Placement Code from CAD.

For the above reasons, we respectfully submit that the Advertisement is not in breach of the AANA Code or any Further Codes.

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' concerns that the advertisement is racist and has an instance of swearing being beeped out.

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

The Panel noted that this television advertisement is for Domino's New Yorker Big Pepperoni pizza showing New Yorkers describing what makes a New Yorker style pizza. There are two versions of the advertisement. One features two African American men talking about the deal and one of them says "that's *bleep* crazy" with a horn sound effect obscuring the word. The second version features an elderly woman saying the phrase, again with a horn sound effect obscuring the word.

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way 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.'

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

"Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."

The Panel noted the complainant's concern that the advertisement features offensive racial stereotyping.

The Panel noted that the complainant did not describe exactly which actors or which scene were the depiction of racial stereotyping, however considered that all characters in the advertisement are shown in New York city with a range of different ethnicities and racial backgrounds represented. The Panel considered that the depiction of people in these settings is not a depiction of discrimination or vilification within the terms of the Code.

On this basis the Panel determined that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race and determined that the advertisement did not breach Section 2.1 of the Code

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 complainants’ concerns that the language was inappropriate for an audience which would include children.

The Panel noted that the beeping out in the advertisement is significant with no part of the word audible, and that there is therefore no clear indication as to what words are being beeped out and whether they are obscene.

The Panel considered that in both versions of the advertisement the speaker's mouth is pixelated and the word cannot be interpreted by the form of their mouth. The Panel noted that most adults would assume that the beeped out word is a swear word and most likely the ‘f’ word but considered that the beeped out word is not able to be identified with any certainty and is not being directed at a person. The Panel considered that overall the advertisement does not use language which is strong, obscene or inappropriate in the circumstances.

Finding that the advertisement did not use strong or obscene language and that the language was not inappropriate, the Panel 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 complaint.

