



Case Report

1	Case Number	0498/15
2	Advertiser	First Home Buyers Direct
3	Product	Finance/Investment
4	Type of Advertisement / media	Radio
5	Date of Determination	10/02/2016
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.3 - Violence Violence
- 2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

There are four versions of the First Home Buyers Direct advertisement, each featuring a person singing about why they want to move out of shared accommodation:

1. "Please inspect my arse", "Kicks you in the balls"
2. "Watch your crap TV shows"
3. "Wish you'd have quieter sex" plus some beeped out words
4. "Really [beep] me off"

Each version ends with a female voiceover explaining that you can afford to be direct with your housemates.

THE COMPLAINT

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

Inappropriate language to use on the radio at 9am, particularly on school holidays. Now the kids are singing that line over and over again which is both embarrassing and inappropriate.

At the time the advertisement was aired (around midday on a Sunday) all three of our children, aged 9, 8 and 5 years old, were in the car where the radio was on. At their age we are trying to discourage the use of inappropriate language and violence. In this advertisement they were exposed to a depiction of both. The content is not appropriate at anytime slot, having regard to the Commercial Radio Code of Practice 1, but particularly at weekend midday timeslot.

THE ADVERTISER'S RESPONSE

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

We acknowledge this complaint and have undertaken significant discussion regarding this. First Home Buyers Direct (FHBD) is acutely aware of our requirements under the Advertising Standards act.

The ad in question is indeed quite (edgy) so far as its use of language could sound. We tested this ad internally and within hit92.9 to see if there was adverse reactions prior to running this ad, which has been on air for over 6 months. It is one in a series of sung ads that we use. Between our staff and the hit929 staff there did not appear to be an adverse reaction to this version.

Our target audience is PPL 18 – 24, those who are, or are about to, enter the first home buyers market. This material is designed specifically to engage this age demographic. We also choose to advertise in the environment of hit92.9 which itself is an edgy, younger demographic aimed station.

To this end, we do not feel we have transgressed the Advertiser Code of Ethics, and these ads that have aired hundreds of times have not elicited any other complaints. We therefore conclude that they are within the limits of what someone could reasonably expect to hear on hit92.9.

We are, however changing our creative from Feb 1 onwards and these commercials are unlikely to air in the future.

We will continue to review and update how we advertise in line with community expectations and your response is important in helping us formulate what is appropriate and what is not.

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’ concerns that the advertisement references violence and uses inappropriate language.

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

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board noted that there are four versions of this radio advertisement, each featuring a person singing about why they want to move out of shared accommodation.

The Board noted the first version of the advertisement which features a woman singing, "I hope one day a tenant snaps and kicks you in the balls".

The Board noted the complainant's concern over the reference to violence. The Board noted that the context for this statement is that the woman is annoyed that her landlord has ignored her request for repairs. The Board noted the overall tone of the advertisement and considered that the happy nature of the jingle lessens the impact of the phrase "kick you in the balls". The Board noted that the singer is expressing her hope that one day the landlord is kicked in the balls but considered that this phrase is not of itself a depiction of violence but rather an expression which is being used in a throwaway manner.

The Board considered overall that the advertisement did not present or portray violence and determined that the advertisement did not breach Section 2.3 of the Code.

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 the first version of the advertisement features the words, 'arse' and 'balls'. The Board noted that the word 'arse' is often used in common Australian vernacular in phrases such as, 'I can't be arsed' or 'don't arse about' but considered that when this word is used in an invitation to 'inspect my arse' the context changes and becomes more likely to cause offense.

The Board noted the use of the word, 'balls'. The Board noted that 'balls' is a commonly used term in the Australian vernacular to mean men's testicles and considered that this is how the word is being used in this advertisement. The Board noted that it had previously dismissed a complaint against a radio advertisement that used the phrase, 'grow some balls' but considered that in that case, 0204/14, the phrase was being used in relation to a vasectomy service and was used in a light-hearted context. In the current advertisement the Board noted that the reference to 'balls' is being used in the context of wishing someone an unpleasant experience. The Board noted that the words 'arse' and 'balls' are used in close succession and considered that this increases the impact of the words. The Board noted that the jingle is catchy and simplistic and considered that it would be appealing to children. The Board noted the advertiser's response that this radio station is edgy and not directed to children but considered that radio stations are not able to exclude children as listeners and should take care that their advertising is appropriate for a very broad audience which would include children. The Board noted the GfK Radio Ratings, Survey 8, 2015, that shows that this radio station, 92.9FM Perth, is the number one station for people aged 18-39 years.

The Board considered that whilst this version of the advertisement did not use strong or

obscene language, in the Board's view it did use language which many members of the community, including the target audience of adults aged 18-39, would find to be inappropriate in the circumstances.

The Board noted the second version of the advertisement which features the line, 'Watch your crap TV shows'.

The Board noted it had previously dismissed complaints about the use of the word 'crap' in an online advertisement in case 0484/15, as well as in a radio advertisement in case 0287/13 where:

"The Board noted the advertisement features a promotion for Puratap's "don't feel like crap sale" and that in each version of the advertisement there is a reference to feeling like crap.

The Board noted that the word 'crap' is commonly used in the Australian community and is a slang word which can refer to feeling unwell or generally rubbish. The Board noted that the word is used frequently throughout the advertisements and that some members of the community may find its use to be inappropriate.

The Board considered however that the majority of the community would find that the use of the word crap in a humorous context to be consistent with common vernacular and not offensive or inappropriate. The Board considered that the use of the word crap in the advertisement did not amount to a use of strong or obscene language."

In the current advertisement the Board noted that the word 'crap' is being used to describe something which is not very good and considered that the word is being used in a manner consistent with common Australian vernacular and is not being used in a threatening or inappropriate manner. The Board considered that consistent with its previous determinations the use of the word 'crap' in this radio advertisement is not strong, obscene or inappropriate in the circumstances.

The Board noted the third version of the advertisement which features a man saying he wished his parents would have quieter sex as well as two words which are beeped out. The Board noted the reference to quieter sex and considered that whilst some members of the community would prefer that the word 'sex' not be used in advertising the Board considered that this word is not of itself strong or obscene. The Board noted that the mention of sex in the advertisement is the context of a humorous reference to an adult child needing to move out of home and considered that the phrase "quieter sex" is not inappropriate in the context of a phrase within a song which contains no other sexual references or language.

The Board then noted the two beeped out words. The Board noted that with the first word that is beeped out it is not clear what word is being replaced and considered that this is not strong, obscene or inappropriate language. The Board noted the second word that is beeped out. A minority of the Board considered that the full word had not been sufficiently beeped out and there is a suggestion that the word is the 'f' word. The minority of the Board considered that as the 'f' word is still a word which is considered strong or obscene by many members of the community in the Board's view it is not appropriate for this word to be used in a radio advertisement and not be fully beeped out. The majority of the Board however considered that it is not clear which word has been beeped out and that the level of beep is sufficient to make this word open to different interpretations. The majority of the Board

considered that the beeped out words were not strong or obscene language and were not inappropriate in the circumstances.

The Board noted the fourth and final version of the advertisement which features a beeped out word. The Board noted it had previously dismissed complaints about similar radio advertisements where some words were beeped out in cases 0250/12, 0505/14 and in case 0126/15 where:

“The Board noted that in each version of the advertisement the spoken words are covered by the noise of the car horn and considered that it is not clear what words are being covered over. The Board noted that the complainant had interpreted the covered words as being crude and offensive but considered that it is not clear what the words are. The Board noted that the words which are not covered by a car horn are not inappropriate or offensive and considered that overall the advertisement does not actually use any language which could be considered strong, obscene or inappropriate.”

In the current advertisement the Board noted that the word which is beeped out could be any word and considered that as it is not clear which word the beep is replacing in the Board’s view the language is not strong, obscene or inappropriate in the circumstances.

The Board determined that version one of the advertisement, which features references to ‘arse’ and ‘balls’ did breach Section 2.5 of the Code.

Finding that the advertisement did breach Section 2.5 of the Code, the Board upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advert will not be modified, it is discontinued. This will no longer air on the radio.