

Case Report

1. Case Number :	0168-24
2. Advertiser :	The Walt Disney Company (Australia) Pty Ltd
3. Product :	Entertainment
4. Type of Advertisement/Media :	TV - Pay
5. Date of Decision:	3-Jul-2024
6. Decision:	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.5 Language

DESCRIPTION OF ADVERTISEMENT

This Pay TV advertisement is for the movie 'Deadpool & Wolverine' which includes a character saying:
"Let's fucking go" and "get the fuck off me".



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

High level language with several F words used during the ad. It was played at half time on an afl game which families including children watch. 5:50 in the afternoon.

THE ADVERTISER'S RESPONSE

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

The complaint relates to an audio-visual advertisement that appeared on the Foxtel-owned over-the-top (OTT) video subscription streaming service, Kayo, on 25 May 2024, promoting the upcoming release of the feature film, Marvel's Deadpool & Wolverine. A copy of the advertisement in question has been provided with this response.

The Deadpool franchise appeals to a mature audience, and while the film Deadpool & Wolverine is yet to be classified, the two previous Deadpool films received an MA15+ classification. Disney proactively produced an edited 'safe' version of the advertisement in addition to the original version, which features adult language consistent with the film, with the intention of equipping advertising partners with an option so they could ensure that mature content and advertising materials were not played out to their younger audiences. Both versions of the advertisement were disseminated to media outlets participating in the relevant phase of the promotional campaign for the film so that they could be scheduled appropriately and according to the platform's processes.

When engaging with Kayo, Disney purchased an advertising package for the film that was stated as targeting viewers that were 18 years or older. Consequently, Disney had good reason to understand that the adult version of the advertisement would only be played out on Kayo to an audience that was over 18 years of age.

Unfortunately, despite Disney taking reasonable steps to ensure mature content was only available to an adult audience, the original advertisement may have been viewed by a broader audience on Kayo.

This version of the advertisement is no longer showing on Kayo, and we are reviewing the processes we have in place with Kayo so that our advertisements are appropriately placed in future.

THE DECISION

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 complainant's concern that the language is offensive.

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

Section 2.5: Advertising 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 Practice Note for this section of the Code states:

"The "f" and "c" words are generally viewed as harmful, unacceptable and not permitted. Nonverbal representations of the "f" word are also generally not permitted. Words and acronyms that play on the 'f' word, e.g. WTF and LMFAO, but do not use the actual word are normally considered acceptable if used in a light hearted and humorous way, are in subtitle rather than spoken word and are appropriate to the situation. Advertisements which use the 'f' word in full will be seen to constitute strong and offensive language, even when the audience is restricted. Advertising which uses the 'f' word where it has been insufficiently censored so that it can be easily understood by audiences, will be seen to constitute strong language, especially when seen by a broad audience."

The Panel noted the advertiser had requested that the advertisement only play to audiences over 18. The Panel considered that the platform, Kayo, does not appear to have a parental control setting or any option to indicate that children are watching with a parent on the parent's account. The Panel considered that AFL is a popular sport among both adults and children, and it would be reasonable to assume that children would be watching live AFL games streamed through the app, with or without their parents present.

The Panel considered that adults watching the AFL may also find strong language confronting and inappropriate, and would not be expecting such language in advertising when watching live sport.

The Panel noted the advertiser had another version of the advertisement which did not contain swearing. The Panel considered that the advertiser had chosen to provide the version of the advertisement with swearing to the platform, and even if this had only been played to adults, the strong language would still be inappropriate in the context of advertising during live sport.

Section 2.5 conclusion

The Panel determined that the advertisement did contain strong or obscene language and did breach Section 2.5 of the Code.

Conclusion

Finding that the advertisement breached Section 2.5 of the Code the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DECISION

I confirm that The Walt Disney Company Australia discontinued the advertisement in question following the complaint.