

<b>COMPLAINT NUMBER</b>	17/231
<b>COMPLAINANT</b>	N. Carswell
<b>ADVERTISER</b>	ITM
<b>ADVERTISEMENT</b>	ITM, Television
<b>DATE OF MEETING</b>	8 August 2017
<b>OUTCOME</b>	Not Upheld

## SUMMARY

The television advertisement for ITM, shows three builders sharing banter with each other as they explain how each obtained their nicknames. One man is called ‘Sadeyes’ because he pre-empted sick days with sad looking eyes. Another is called ‘Holidave’ because he is always booking holidays at busy work times. As this is being explained, Holidave announces he has booked more leave, which prompts the lead character to respond with “Oh my god, far out man”. Overlapping this line of dialogue is the sound of a nail gun, bullet pointing the final message of the advertisement, with the words “Live To Build” which appears on the screen.

The Complainant was concerned that the advertisement contained an expletive when a character reacts during a conversation with what they believe could be “Fuck off”. The Complainant did not believe that suggestive or implied profanity was appropriate during children’s viewing times.

The Complaints Board confirmed the advertisement did not contain any suggested or implied profanity and was unlikely to cause serious and widespread offence and did not offend against generally prevailing community standards.

Accordingly, the Complaints Board ruled to Not Uphold the complaint.

## [No further action required]

Please note this headnote does not form part of the Decision.

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## COMPLAINTS BOARD DECISION

The Chair directed the Complaints board to consider the complaint with reference to Basic Principle 4 and Rules 4 and 5 of the Code of Ethics. This required the Board to consider whether the advertisement contained anything which clearly offended against generally prevailing community standards or was likely to cause serious or widespread offence taking into account the context, medium, audience and product. The Complaints Board was also required to consider whether the advertisement had been prepared with a due sense of social responsibility.

### **The Complaint**

The Complaints Board noted the concerns of the Complainant that the advertisement contained an expletive when a character reacts during a conversation with what could be “Fuck off”. The Complainant did not believe that suggestive or implied profanity was appropriate during children’s viewing times.

### **The Advertiser’s Response**

The Complaints Board acknowledged the response of the Advertiser that the actor in the advertisement was saying the phrase “Far out man” and said the Complainant had misheard the statement. The Advertiser provided a transcript of the dialogue to support its response. The Advertiser also pointed out the phrase “Far out” is used by the same character twice during the advertisement.

### **The Media Response – Commercial Approvals Bureau**

CAB confirmed that the advertisement was approved and given a GXC (General except children) rating. They also reinforce the Advertiser’s response by confirming that the phrase spoken by the actor is “Far out” and that there was no suggestion of it being a swear word, which would not have been cleared by the CAB.

### **The Complaints Board Discussion**

The Complaints Board listened to different versions of the advertisement in order to gain the clearest possible audio of the dialogue. It acknowledged that it was difficult to hear clearly, given the sound of the nail gun effect featuring over the visual. The Complainant Board’s examination of the advertisement was supported by the transcript provided by the Advertiser and it unanimously agreed that the character was saying “Oh my god, far out man.”

The Complaints Board also noted the Advertiser response that the phrase had been repeated twice by the same character during the course of the advertisement and said this reinforced the authenticity of the character’s dialogue. The Complaints Board took into account the media response, that the advertisement would not have received approval if a strong expletive had been used.

The Complaints Board agreed there was no suggested or implied profanity in the advertisement and therefore it was not in breach of Basic Principle 4 or Rules 4 and 5 of the Code of Ethics.

### **The Complaints Board ruled the complaint was Not Upheld**

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## **DESCRIPTION OF ADVERTISEMENT**

The television advertisement for ITM, shows three builders sharing bantering with each other as they explain how each obtained their nicknames. One man is called ‘Sadeyes’ because he pre-empts sick days with pathetic looking eyes. Another is called ‘Holidave’ because he is always booking holidays at busy work times. As this is being explained, Holidave announces he has booked more leave, which prompts the lead character to respond with “Oh my god, far out man”. Overlapping this line of dialogue is the sound of a nail gun, bullet pointing the final message of the advertisement, with the words “Live To Build” which appears on the screen.

## COMPLAINT FROM N CARSWELL

ITM Advertisement "Sadeyes & Holidave" has what possibly may be interpreted to be an expletive mentioned towards the end of the advertisement - Something like "Oh F Off" .I noticed the advertisement on TV 3 on Saturday Night within an Advertisement break during 3 News.I don't believe that Suggested or Implied Profanity is appropriate during this time give children tend to still be awake.

## CODE OF ETHICS

**Basic Principle 4:** All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

**Rule 4, Decency:** Advertisements should not contain anything which clearly offends against generally prevailing community standards taking into account the context, medium, audience and product (including services).

**Rule 5, Offensiveness:** Advertisements should not contain anything which in the light of generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services).

## RESPONSE FROM ADVERTISER: ITM

ITM takes the development of all advertising communications seriously and are always mindful of how the advertising impacts the brand and the community. 1TM is a national operation with owner-operators who actively participate in their local communities.

### We adamantly reiect the complaint. In response:

The complainant refers to:

Basic Principles

- 4. All advertisements should be prepared with a due sense of social responsibility to consumers and to society.*

Rules

- 4. Decency Advertisements should not contain anything which clearly offends against generally prevailing community standards taking into account the context, medium, audience and product (including services).*

- 5. Offensiveness — Advertisements should not contain anything which in the light of generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services).*

The complaint states "what possibly may be interpreted to be an expletive" the complaint goes on to say "something like "Oh F Off".

It's apparent that N Carswell doesn't seem to be sure of what they heard, having only heard the ad once, as per the specified time stated in the complaint. We believe that the complainant may have misheard the advertisement having only heard it once.

To clarify. What the talent said was "Oh Far Out!". This is a harmless idiom that does not compromise basic principle 4. In any respect.

As to rule 4. & 5., we fail to see how any-one could interpret "Oh Far Out!" as breaching community standards or could cause wide spread offence.

Also, given that this issue has been raised once, while the advertisement has been viewed both online and on TV a significant number of times, we don't see the error as wide spread and pervasive.

### **Summary:**

Unless otherwise instructed by the ASA we see no reason to modify the advertisement in any way.

### **FURTHER FROM THE ADVERTISER:**

The audio is not very clear on the version you attached.

It is much clearer on this version: [https://www.youtube.com/watch?v=Q\\_pQPzjprSE](https://www.youtube.com/watch?v=Q_pQPzjprSE) (see dropbox).

There is a subtle difference between them – on the version you attached, the word “bugger” at the end of the video is covered over with a nail gun sound.

In the online only version that I have linked that word has not been covered over like it has been on the publically aired version.

Also worth noting is that the builder uses the phrase “far out guys” 2 seconds into the video. It is the same guy saying “far out man” later in the video.

### **RESPONSE FROM MEDIA: COMMERCIAL APPROVALS BUREAU**

We have been asked to respond to this complaint under the following codes:

Code of Ethics – Basic Principle 4, Rule 4, Rule 5;

CAB approved this ITM commercial on 22/03/17 with a GXC classification. Under CAB's internal procedures, the commercial is categorised as a Building/Construction advertisement.

A complainant believes they heard the phrase “Oh F- off” or similar while viewing this commercial.

In truth, the audio says “Far out man” and can be heard simultaneously with the sound effect of a nail gun. This is different from an implied profanity because the actual phrase “Far out man” is still audible.

Under Rule 4 & 5, an upheld decision would dictate that the use of non-offensive phrases like “Far out man” was unacceptable and serious offensively.

CAB supports the idea that a masked phrase like “Oh F- off” is highly offensive and should not appear in New Zealand advertising.

Conversely, the benign phrase “Far out man” should be okay for broadcast, even if one complainant has misheard the audio.