

COMPLAINT NUMBER	17/052
COMPLAINANT	L Kitto
ADVERTISER	Hell Pizza
ADVERTISEMENT	Hell Pizza, Radio
DATE OF MEETING	28 February 2017
OUTCOME	Upheld, in part

SUMMARY

The radio advertisement for Hell Pizza contains the line “If you buy one 1.5 litre Coke you’ll get sweet f. all, but if you buy two 1.5 litre Cokes you’ll get two limited edition glasses for free”.

The Complainant said the use of the phrase “sweet f. all” during the day on a popular radio station was “of a vile nature”.

The Advertiser rejected the complaint and said “F all” is a widely-used expression and apart from this one complaint no others have been received. The Advertiser said this advertisement is no longer running.

The Media said they were comfortable to run this advertisement on three of their stations: The Hits, Hauraki and ZM as these stations clearly target adult audiences.

A majority of the Complaints Board said the use of the phrase “sweet f all” was mildly offensive but the level of offensiveness didn’t reach the threshold required to cause serious or widespread offence.

A majority of the Complaints Board agreed however that the advertisement had not been prepared with a due sense of social responsibility to consumers and to society.

This was because the phrase is an implied reference to the word “fuck”, a strong expletive, which is ranked number seven on the Broadcasting Standards Authority list of “Unacceptable Words on Radio and Television”.

The majority also said the phrase “sweet f all” is not suitable for children, and children do listen to the radio stations where the advertisement was played, both during the day, and during school holidays. The product being advertised, pizza, is also a product that appeals to children.

A minority of the Complaints Board said the advertisement was acceptable because there is a difference between an explicit and an implied profanity, and the phrase “sweet f all” would be acceptable to most listeners.

In accordance with the majority, the Complaints Board ruled to Uphold the complaint, in part.

[No further action required]

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

COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the advertisement with reference to Basic Principle 4 and Rule 5 of the Code of Ethics. This required the Complaints Board to consider whether the advertisement contained anything which was likely to cause serious or widespread offence taking into account the context, medium, audience and product and if it had been prepared with a due sense of social responsibility to consumers and to society.

The Complaints Board ruled the complaint was Upheld, in part.**The Complaint**

The Complainant said the use of the phrase “sweet f. all” during the day on a popular radio station was “of a vile nature”.

The Advertiser’s Response

The Advertiser rejected the complaint and said “F all” is a widely-used expression and apart from this one complaint no others have been received. The Advertiser said this advertisement is no longer running.

Precedents

To assist in coming to its decision the Complaints Board reviewed three precedent decisions: Complaint 11/225, which was “Upheld”, Complaint 10/334 which was Not Upheld and Complaint 09/318, which was Settled.

The first precedent decision concerned a radio advertisement for Moa Beer. In its decision, the majority of the Complaints Board agreed the word “fuck” was clearly the expletive used in the advertisement, despite the beep that was supposed to mask it. The majority said that in a survey conducted by the Broadcasting Standards Authority the word “fuck” ranked quite highly. The majority said although the radio station, RadioLive, had a predominantly adult demographic, the timing of the advertisement (midday on a Saturday) meant children would be among the listeners.

The second precedent decision concerned a radio advertisement for the Far North Fuel (FNF) card. In its decision, the majority of the Complaints Board agreed that use of the term “effin” as a play on the name of the fuel card, although somewhat lacking in taste, was unlikely to cause serious or widespread offence. The Complainant’s appealed the Complaints Board decision. The Appeal Board dismissed the appeal in a majority decision. The majority said that the term “effin “ was a play on words that referred to the company name and the fact that the actual expletive was not used meant the Code of Ethics was not breached. A minority disagreed on the basis that the term “effin” was a recognised form of a strong expletive and the radio station where the advertisement played has a broad listener base that could include children.

The third precedent decision concerned a billboard advertisement for Air New Zealand which listed arrival and departure points within New Zealand and ended with the phrase “for sweet FA”. In her decision, the Chairman noted that the Advertiser had apologised for any offence caused to the three Complaints and removed the advertisement, in a self-regulatory manner. Accordingly, she said the matter had been settled and that it would serve no further purpose to place it before the Complaints Board.

The Media's Response

The Media said they were comfortable to run this advertisement on three of their stations: The Hits, Hauraki and ZM, as these stations clearly target adult audiences.

The Media said that while the word "fuck" would clearly be unacceptable on mainstream radio they believe euphemisms such as "eff", "effing", "flipping" and "fecking" are unlikely to cause serious or widespread offence.

The Complaints Board Discussion

Having considered all the information provided, the Complaints Board turned to consider whether the advertisement had breached Basic Principle 4 or Rule 2 of the Code of Ethics.

Does the use of the phrase "sweet f all" cause serious or widespread offence?

A majority of the Complaints Board said the use of the phrase "sweet f all" was offensive but the level of offensiveness didn't reach the threshold required to cause serious or widespread offence. The majority said the use of the abbreviation "f" in the phrase "sweet f all" was not as offensive as the full word.

A minority of the Complaints Board said a young audience listens to ZM radio and it is not appropriate to normalise the use of language like "f" and "effing". The product being advertised, pizza, is also a product that appeals to children.

In accordance with the majority, the Complaints Board ruled the advertisement was not in breach of Rule 5 of the Code of Ethics and was not likely to cause serious or widespread offence.

Has the advertisement containing the phrase "sweet f all" been prepared with a due sense of social responsibility to consumers and to society?

The Complaints Board then turned to consider whether the advertisement containing the phrase "sweet f all" had been prepared with a due sense of social responsibility to consumers and to society?

A majority of the Complaints Board agreed the advertisement had not been prepared with a due sense of social responsibility to consumers and to society. This was because the phrase "sweet f all" is an implied reference to the word "fuck", a strong expletive, which is ranked number seven on the Broadcasting Standards Authority list of "Unacceptable Words on Radio and Television".

The majority also said the phrase "sweet f all" is not suitable for children, and children do listen to the radio stations where the advertisement was played, both during the day, and during school holidays. The product being advertised, pizza, is also a product that appeals to children.

The majority noted the Advertiser's comment that the phrase "f all" is used in everyday mainstream media. The majority said the examples provided were editorial, not advertising, and there are different rules for advertising.

A minority of the Complaints Board said the advertisement containing the phrase "sweet f all" had been prepared with a due sense of social responsibility to consumers and to society.

The minority said the advertisement was acceptable because there is a difference between an explicit and an implied profanity, and the phrase "sweet f all" would be acceptable to most listeners.

In accordance with the majority, the Complaints Board ruled to Uphold part of the complaint.

Decision: Complaint **Upheld, in part.**

DESCRIPTION OF ADVERTISEMENT

The radio advertisement for Hell Pizza contains the line “If you buy one 1.5 litre Coke you’ll get sweet f. all, but if you buy two 1.5 litre Cokes you’ll get two limited edition glasses for free”.

COMPLAINT FROM L KITTO

I believe the advert is of a Ville nature Advert says Buy one and get sweet F all People know what is ment Bad advertising during the day on a popular radio station.

CODE OF ETHICS

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

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: HELL PIZZA

F all is a widely used expression, we are unsure why your complaint contained the decision from Moa Beer (11/225) as this is not the same – they clearly said the word ‘fuck’ and it was poorly beeped out so easily distinguishable.

There are many example of 'F all' being used in everyday mainstream media, one recent example was on National radio on Friday the 17th just before the 4pm, news (with no doubt MANY kids being forced to listen)

http://www.radionz.co.nz/audio/player?audio_id=201833659 at about 9:44

A few more recent examples:

<http://www.stuff.co.nz/sport/racing/86252462/come-one-come-all-to-the-new-zealand-cup>

<https://publicaddress.net/hardnews/megabox-from-fk-all-to-zero/>

Air NZ billboard (*picture supplied*).

Our ad was emailed to about 170k customers as well as many other impressions via web and radio ads – aside from L KITTO from Mosgiel we did not receive any complaints or negative feedback . This in itself shows acceptance by the masses.

This campaign and the ads are no longer running but we reject this complaint and are making a stand for all advertisers, journalists and Radio NZ panelists to be able to continue to use the phrase F all.

RESPONSE FROM MEDIA: NZME

We note that NZME received the advertising material from the client and we have broadcast the supplied advertising material in good faith as per normal practice.

The relevant sections in the Code of Ethics are:

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

Rule 5 - 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).

We note that Rule 6 may also be relevant:

Rule 6 - 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).

While the advertisement was written and prepared by an agency outside NZME, we were comfortable to run it on three of our stations: The Hits, Hauraki, and ZM.

We note that the complainant attached and referred to a previously upheld decision from the ASA which related to the poor "bleeping out" of the f-word in an advertisement, as a precedent (Decision 11/225).

While use of the word "fuck" would clearly be unacceptable on mainstream radio, we believe that euphemisms such as "eff," "effing," "flipping," "fecking" (and other colloquial derivatives) that are commonly used in the context of everyday speech (both on-air and in the community) are very unlikely to cause widespread or serious offence. Most adults, while understanding the allusion, will not find it overly coarse.

We have also **attached** a previous decision from the ASA (Decision 10/334) in which the term "effin" was not deemed to breach the codes. We consider that this is a more relevant precedent than Decision 11/225, referred to by the complainant. In Decision 10/334, particular importance was given to the characteristics of the radio stations that the advertisement was on, such as the context and audience. In this case:

- The Hits' audience is female and male adults, 25-54.
- ZM's audience is primarily female and male young professionals, 18-39.
- Hauraki's audience is primarily male, blue and white collar, 25-49.

All of these stations clearly target adult audiences. As part of all of these stations' regular content, hosts commonly make adult references and innuendo, and may use colloquial language.

None of these stations directly target a young audience, although we acknowledge that The Hits and ZM may have a peripheral audience of children exposed through their parents' listening. However, we do not feel that it would be inappropriate for children incidentally exposed to this ad to hear the term 'sweet f-all.' Should the term even be noticed by a young person, we consider that an adult listener could easily deflect this it with a simple answer — that it means 'nothing' or 'nothing much' without needing to reveal the implied innuendo.

We believe that the advertisement was appropriate within the context, medium, and audience, and that it did not breach the Advertising Codes.