

COMPLAINT NUMBER	22/144
ADVERTISER	Stuff
ADVERTISEMENT	Stuff, Website, Print
DATE OF MEETING	14 June 2022
OUTCOME	Upheld Advertisement not to be used again

Summary of the Complaints Board Decision

The Complaints Board upheld two complaints about a Stuff advertisement which included an expletive spelt as “Unf#*ing”. The majority of the Complaints Board said the use was gratuitous and the Advertiser had used it to attract attention. It said the threshold to be likely to cause widespread offense had been met through its use in unrestricted print and digital platforms. The advertisement had not been prepared and placed with a due sense of social responsibility.

Advertisement

The Stuff advertisement which appeared on the Stuff website and the Taranaki Daily News says, “Unf#*ing the planet was one thing we couldn’t stay impartial on. So now we’re B Corp Certified.” The advertisement included the Stuff and B Corp logos.

Summary of the Complaint

Two Complainants were concerned the wording used in the advertisement was inappropriate given the wide range of ages who could be viewing it.

Issues Raised:

- Social Responsibility
- Decency and Offensiveness

Summary of the Advertiser’s Response

The Advertiser said the advertisement was related to Stuff’s certification as a B-Corp accredited organisation, which audits that a business is meeting high standards of performance, accountability and transparency on factors from employee benefits and charitable giving to supply chain practices and input materials.

The Advertiser said the tongue in cheek delivery was portraying an important message of prioritising people and the planet as well as profit, particularly in relation to climate change which Stuff has focussed on with editorials.

The Advertiser said the language is provocative but not offensive with the BSA survey dropping the unredacted word Fuck from 13th to 26th on the latest list of words which may offend. The Advertiser said the asterisk redaction mitigates any impact the word may have had on younger readers. The context of the public interest message of the advertisement further diluted any offense. The Advertiser said the copy was exposed to an audience of over 1.5 million people across print and digital platforms suggests it was not deemed offensive by the general public. The Advertiser confirmed the audience was predominately 18+ years of age.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaints with reference to the following codes:

ADVERTISING STANDARDS CODE

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(c) Decency and Offensiveness: Advertisements must not contain anything that is indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule.

Guideline

- Advertisers must not use offensive, degrading or provocative copy and/or images to attract attention or promote the sale of products or services.

Relevant precedent decisions

In considering these complaints the Complaints Board referred to four precedent decisions, Decision 22/106 and 09/098, which were Upheld and 20/575 which was Not Upheld. Decision 22/066 Appeal 22/007 was ruled No Grounds to Proceed by the Chair of the Complaints Board and declined by the Chairperson of the Appeal Board upon appeal.

The full versions of these decisions can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 22/066 Appeal 02/017 concerned a television advertisement for Kennards Hire which shows an employee affirming an oath to help everyone by saying “ken oath.”

The Chair of the Complaints Board ruled there was no grounds to proceed as the advertisement did not meet the threshold to cause serious or widespread offence. The Chair said the play on words related to name of the Advertiser which mitigated its use as a suggested substitute for the colloquial expression of agreement ‘fucking oath.’ The no grounds ruling was appealed by the Complainant, however the Chairperson of the Appeal Board ruled there were no grounds for the appeal and the application was declined.

Decision 20/575 concerned a billboard advertisement for Effen Vodka which contained the text “How Effen Good.”

The Complaints Board did not uphold two complaints claiming the advertisement was offensive. The Board said the phrase was milder than the phrase ‘How fucking good’ and was an enthusiastic endorsement for a drink which is named after the brand name of a product. The Board said this context meant the advertisement did not reach the threshold to cause serious or widespread offence.

Decision 20/106 concerned a billboard advertisement for Mad Hueys, a clothing manufacturer which contained the text “Caught F*CK All Fishing Club.”

The Complaints Board upheld the two complaints and said despite using an asterisk as a placeholder for a letter, the meaning of the word would be obvious to the majority of consumers and was generally regarded as offensive. The Board said it was not socially responsible to use the word ‘fuck’ to promote a clothing brand in an unrestricted advertising medium.

Decision 09/098 concerned a store window advertisement for Void Clothing which said “F#K’N Hot Summa !Sale!”

The Complaints Board upheld the complaint and said this combination of letters and symbols in the context of the advertisement would be largely understood by consumers to refer to the offensive swear word. The Complaints Board said the advertisement was not socially responsible given the unrestricted medium of a shop window.

Complaints Board Discussion

The Chair noted that the Complaints Board’s role was to consider whether there had been a breach of the Advertising Standards Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised, which in this case is:
 - Context: Climate change and Advertiser’s focus on the environment
 - Medium: Website and print platforms
 - Audience: Unrestricted predominantly adult audience
 - Product: Promoting its achievement relating to environmental certification

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was that Stuff are B-Corp certified and it was emphasising how this is good for the environment with the use of an expletive.

Does the advertisement contain anything that is indecent or is likely to cause serious or widespread offence?

In discussing any risk of a code breach, the Complaints Board noted Rule 1(c) on decency and offensiveness includes a guideline that states:

“Advertisers must not use offensive, degrading or provocative copy and/or images to attract attention or promote the sale of products or services.”

The majority of the Complaints Board said the prominent and deliberate use of the word “Unfucking” spelt “Unf#*king” in the advertisement was gratuitous and was not saved by the likely audience being predominantly adult.

The majority of the Board said there were many other words which could have expressed the strong stand the Advertiser was making about its B-Corp certification and its commitment to environmental issues. The majority of the Board considered the offensive word had been chosen deliberately to attract attention which was contrary to the relevant guideline of Rule 1(c) of the Advertising Standards Code. The majority of the Board said the combination of letters and hashtag and asterix placeholder symbols used in the advertisement formed a word which would be instantly recognisable to most of the audience viewing it. The majority of the Board said despite the unredacted word ‘fuck’ becoming less offensive according to the BSA’s *The most unacceptable words in broadcasting in 2021* survey, the Advertiser clearly recognised the actual word was likely to offend and had chosen to use the redacted version.

The majority of the Complaints Board said that there were previous precedents such as 20/575 Effen Vodka and 21/066 Kennards Hire where using humour and a word which sounded

similar to a swear word had been deemed acceptable by the Complaints Board when there was a direct correlation to the product being advertised. The majority of the Board did not consider there was any relevance in the choice of word in this advertisement.

The majority of the Complaints Board said the advertisement had reached the threshold to breach Rule 1(c) of the Advertising Standards Code.

A minority of the Complaints Board disagreed and said that although the advertisement appeared in website and print platforms to an unrestricted audience, consumers did still need to seek these platforms out. The minority of the Board noted platforms' audiences were predominantly over the age of 18. The minority of the Board also noted the latest BSA's *The most unacceptable words in broadcasting in 2021* survey showed that the word 'fuck' has become less offensive over time.

For a minority of the Complaints Board, the advertisement did not reach the threshold to breach Rule 1(c) of the Advertising Standards Code.

Has the advertisement been prepared and placed with a due sense of social responsibility?

The majority of the Complaints Board said the advertisement was not socially responsible. The majority of the Board said the context of the offensive word appearing on mainstream news platforms was likely to be confronting for many regular viewers.

A minority of the Complaint Board disagreed and said the Advertiser had used the word to emphasise an important message about its environmental credentials. For the minority of the Board, the predominantly adult audience and the lower ranking of the word 'fuck' on the BSA's *The most unacceptable words in broadcasting in 2021* survey meant the advertisement had met the requisite level of social responsibility.

For a minority of the Complaints Board the advertisement did not reach the threshold to breach Principle 1 of the Advertising Code.

However, in accordance with the majority, the Complaints Board ruled the advertisements had not been prepared with a due sense of social responsibility taking into account context, audience, medium and product and was in breach of Principle 1 and Rule 1(c) of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaints were **Upheld**.

Advertisement to be removed and not used again in its current form.

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website, www.asa.co.nz. Appeals must be made in writing with notification of the intent to appeal lodged within 14 calendar days of receipt of the written decision. The substantive appeal application must be lodged with the ASA within 21 calendar days of receipt of the written decision.

APPENDICES

1. Complaint
 2. Response from Advertiser
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Appendix 1

COMPLAINT

Advertisement by Stuff celebrating their achievement of B Corporation Certification. Given this is a full page advertisement published both in print and digital media, it is available for viewing by a wide range of ages and demographics. Fantastic to celebrate however I consider the use of unsatisfactory language is offensive to the viewer, in terms of the Code, Principle 1 Social Responsibility, Rule 1 (c) Decency and Offensiveness.

COMPLAINT 2

This ad popped up when I opened the Stuff website on my desktop this morning - 6 May, 9.10am. Unhappy with the language which despite the asterisks is inappropriate.

Appendix 2

RESPONSE FROM ADVERTISER, STUFF

RE: ASA Complaint 22/144

Complaint

The advertisement ran across a number of Stuff newspapers and on [Stuff.co.nz](https://www.stuff.co.nz) on 6 May 2022 (the **Advertisement**).

The Advertisement's message read: "*Unf#cking the planet was one thing we couldn't stay impartial on./So now we're B Corp certified.*"

Two complaints were received, in respect of Advertisement placements on [Stuff.co.nz](https://www.stuff.co.nz) and the Taranaki Daily News, pursuant to Principle 1, Rule 1 (c) of the Advertising Standards Code. Principle 1 (c) provides:

Advertisements must not contain anything that is indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule.

Complainant 1 considered that "*the use of unsatisfactory language was offensive to the viewer*" but acknowledged that the B Corp certification was "*fantastic to celebrate*". Complainant 2 considered the language used was "*inappropriate, despite the asterisks*".

Background

The Advertisement related to Stuff's certification as a B-Corp accredited organisation. B Corp is an independent audit process that certifies that a business is meeting high standards of verified performance, accountability, and transparency on factors from employee benefits and charitable giving to supply chain practices and input materials.

In order to achieve certification, a company must:

- Demonstrate high social and environmental performance;
- Make a legal commitment by changing their corporate governance structure to be accountable to all stakeholders, not just shareholders;
- Exhibit transparency by allowing information about their performance to be publicly available on their B Corp profile on B Lab's website.

Achievement of B Corp status aligns with Stuff's strategy of making Aotearoa a better place, and having a tangible, positive impact on Aotearoa and the lives of everyone who lives here. The Advertisement was vetted for compliance with the ASA Code by Stuff's internal legal team.

Content of the Advertisement

The message of the Advertisement references both Stuff's B Corp status, and its typically impartial position as an accredited news media organisation.

Despite its tongue in cheek delivery, the underlying message is a serious one, communicating the importance of prioritising people and planet, as well as profit. This is particularly so as it relates to the urgency of the climate emergency - global efforts to "Unf#k the Planet" - that Stuff has focussed on with editorial initiatives like The Forever Project.

While the language used was provocative, Stuff's internal vetting process did not consider it offensive. The most recent "*Language that may offend in broadcasting*" survey, released by the Broadcasting Standards Authority on 17 February 2022 Broadcasting Standards Authority placed the word "*Fuck*" (unredacted) at number 26.

[Stuff.co.nz](https://www.stuff.co.nz), and Stuff's newspapers' audiences are targeted towards adults, the asterisk redaction of the word "Unf#k" mitigates any impact the word may have had on younger readers.

The context of the public interest message of the Advertisement, further diluted any offensive impact the word might convey. The fact that the Advertisement was exposed to an audience of well over 1.5million people on 6 May (across both print and digital platforms), suggests that the use of "Unf#ck" in this contest was not deemed offensive by the general public.

According to the most recent Nielsen data, the 18+ audience for [Stuff.co.nz](https://www.stuff.co.nz) and the Taranaki Daily News is 98% and 97% respectively.