



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

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| 1 | Case Number | 0133/19 |
| 2 | Advertiser | Procter & Gamble Australia Pty Ltd |
| 3 | Product | Health Products |
| 4 | Type of Advertisement / media | TV - Free to air |
| 5 | Date of Determination | 22/05/2019 |
| 6 | DETERMINATION | Dismissed |

ISSUES RAISED

- Other Social Values
- 2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for the product Metamucil features a man in a brown costume designed to represent faeces and a woman in an orange Metamucil costume. The man is seated behind a desk with a nameplate reading 'The Turd We Deserve' and a banner for the 'Gut and Nugget Alliance'. The man addresses the camera as though it is a campaign advertisement. A man dressed in a colon costume holds an informational board with a diagram showing how the product works. At the end of the ad the man dressed as faeces enters a bathroom and closes the door and the sound of something splashing into water is heard. The dialogue includes the phrase 'a vote for the turd we deserve'.

THE COMPLAINT

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

Use of the word Turd and the sound intended to replicate the sound of faeces dropping



*into a toilet bowl, constantly featuring during meal times.
Disgraceful childish ad, the use of the word Turd is just childish and irritating, worse still with the sound effects once the character is last seen to be entering a toilet.
Sick of these childish immature thoughtless ads - given they feature during meal times. I do NOT need to hear the sound of faeces dropping into a toilet bowl as I eat my evening dinner.*

The language is foolish and coarse. If a child picked it up, it would be reprimanded. A little more respect from advertising companies would be an improvement. This ad will certainly not incline me to buy the product.

The use of the profanity 'turd' in the ad.

The audible use of the word Turd and the visual use of the word Turd. There are plenty of other suitable words that could be used. This word is offensive and considered a swear word. The time slot the ad was shown was also not suitable for this type of language.

The words "the turd you deserve" as the closing catch phrase is totally inappropriate. Uses the word "turd" as a quite acceptable turn of phrase. Previous Metamucil ads have been OK but this is reducing to the lowest common denominator of bogan language.

THE ADVERTISER'S RESPONSE

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

We refer to your letter of 8 May 2019, and follow up correspondence on 9, 14 and 20 May 2019, in relation to 10 complaints received by Ad Standards about our Metamucil "Turd You Deserve" advertisement which featured on free-to-air television from Sunday 5 May 2019 (Advertisement). Thank you for the opportunity to respond to the complaint. As you know, Procter & Gamble Australia Pty Ltd (P&G) is an active member of the Australian Association of National Advertisers (AANA) and is committed to ethical practice in its advertising. We appreciate all consumer feedback on our range of household consumer products.

Please be aware that Metamucil is a daily fibre supplement, with the key ingredient psyllium husk, that gels in the body to help remove toxins, waste and some unwanted cholesterol. It is regulated as a registered medicine with the Therapeutic Goods Administration and is not a food. The AANA's Food and Beverages Marketing Communications Code therefore does not apply to this product.



Further, we strongly maintain that the Advertisement does not fall within the jurisdiction of the AANA Code for Advertising and Marketing Communications to Children. While the product is indicated for use for children between 6 – 11 years at a lower dosage, and to consumers over the age of 12 at the regular dosage level (information which has been approved by the Therapeutic Goods Administration for application on the label without constituting ‘advertising’ to children), we know that the purchaser of Metamucil is the adult and our marketing campaign for the Advertisement supports that position. This is evident by the media plan (indicating the programs in which the Advertisement is featured) and adult themes contained in the content of the Advertisement (for example, political analogies and the humorous indication of constipation symptoms). In addition, as a registered therapeutic good, Metamucil must comply with the Therapeutic Goods Advertising Code 2018. Fibre supplements are not included in Schedule 2 of that Code as a class of good which is eligible to be marketed directly to children. P&G is fully aware of this legal requirement and maintains we adhere to strict compliance with stringent therapeutic goods advertising requirements. We have never experienced concerns from the Therapeutic Goods Administration regarding Metamucil and marketing to children.

Hence, our response to Ad Standards in relation to the complaints will only be focused on the AANA’s Code of Ethics. In relation to the Advertisement, while P&G acknowledges the various complainants’ concerns regarding their interpretation of “strong or obscene language” on our part, we believe that the Advertisement is fully compliant with the Code.

While P&G respects the various complainants’ point of view, when the Advertisement is judged against prevailing community standards and in consideration of the nature of the product itself as a fibre supplement for constipation relief, it can be seen that the Advertisement is not inappropriate in the sense of engaging strong or obscene language. Rather, it is a light-hearted and humorous evocation of the symptoms of constipation experienced by our target audience (those afflicted by constipation) in the relatable, contemporary context of an Australian election.

With that brief introduction, we respond to the specific requests for information from Ad Standard below:

A description of the Advertisement

The Advertisement is the third copy in a 3-part series that Metamucil began in 2017, evolving the journey of three characters that represent the product and its benefits. The first copy in 2017 sparked from the approach to appeal to Australian’s sense of humour. The success of the first campaign has led the brand to take this light-hearted, humorous approach for the second copy in 2018, and now the third copy in 2019.

Metamucil is a daily fibre supplement, with the key ingredient psyllium husk, that gels



in the body to help remove toxins, waste and some unwanted cholesterol. The Advertisement was designed to make Australian consumers aware of the Metamucil brand and communicate the benefits of bowel regularity and supporting a healthy gut. Following the approach of the previous two copies in this series, the Advertisement is humorous, light-hearted and is based off a relevant Australian topic to remain relatable to the audience.

A copy of the script

A copy of the free-to-air television commercial script is included.

Details of the CAD reference number and CAD rating (where applicable)

The advertisement is rated G. A copy of the CAD approval is included.

A digital copy of the Advertisement

A digital copy of the Advertisement has been provided as an attachment to the covering email which accompanied this response.

Your comprehensive comments in relation to the complaint (taking into account the need to address all aspects of the advertising codes).

Considering then, relevant aspects of section 2 of the Code in light of prevailing contemporary community standards, it can be seen that the Advertisement is compliant with the Code:

Section 2.1

No issue appears to arise in relation to 2.1.

Sections 2.2

No issue appears to arise in relation to 2.2.

Section 2.3

No issue appears to arise in relation to 2.3.

Section 2.4

No issue appears to arise in relation to 2.4.

Section 2.5

The consumer complaints are all grounded on section 2.5, which states that 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.”

Appropriate context: The Oxford English Dictionary defines ‘turd’ as “a lump of human excrement”. Use of language to describe human excrement is entirely appropriate in



the context of an advertisement for a fibre supplement, which has the very purpose of promoting a bowel movement for the relief of symptoms of constipation. While use of the language 'turd' unrelated to the production of a bowel movement, for example to describe a person, may be derogatory or perceived as an insult, when used as 'slang' language as seen in the Advertisement to humourously describe human excrement without the awkwardness of that formal definition, the language is appropriate and contextual.

Use of humour: P&G has conducted consumer research into what communication codes we should adopt to resonate with Australians. That research indicates the following style of marketing is most appropriate or 'grabbing' for Australian audiences:

Unapologetically Cheeky: Australians appreciate the use of humour as a way to equalise and make light of situations. Communication guidelines include being confident and audacious in communication; that is, having no shame.

As we know, constipation sufferers experience a sense of embarrassment or even shame associated with their condition, the use of humour and absurdity (through costume, pun and unexpected language) related to the condition allows consumers to laugh about their predicament, bringing light-hearted relief to an otherwise serious or uncomfortable situation that the consumer generally experiences when thinking about constipation.

'Cut the Crap': Australians appreciate to-the-point honesty, making a point through tongue in cheek humour and candidness. Communication guidelines include being direct, challenging the status quo and no-nonsense fun, jokes and shared laughter.

From speaking to constipation sufferers directly, we have qualitative learnings that consumers really light up when we humanise or personify poo. Consumers with troublesome bowel movements felt their poo wasn't satisfactory and talking about it seriously did not help. Our research highlighted that our consumers like the sarcastic humour and puns in explaining their experience.

AANA Code of Ethics Practice Note: We wish to draw the Panel's attention to page 7 of the Practice Note, which states:

"Words and phrases which are innocuous and in widespread and common use in the Australian vernacular are permitted (provided they are used in a manner consistent with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner)."

"Crap" and "Shit" are provided by the AANA as examples of acceptable language which are used prevalently in society and have formed part of mainstream Australian



communication, when used with gentle humour. We argue that 'turd' is a softer term than 'crap' or 'shit', or at worst, of an equivalent status, and is therefore not inappropriate, strong or obscene.

*Prevailing community standards: The consideration of offensive language is most frequently in issue in the criminal jurisdiction. Magistrate D Heilpern provides some useful guidance on the prevailing community standards when it comes to use of offensive language. In *Police v Butler* [2003] NSWLC 2, the court had to consider whether repeated use of the word 'fuck' in a community dispute constituted offensive language. He comments:*

*"In short, one would have to live an excessively cloistered existence not to come into regular contact with the word, and not to have become somewhat immune to its suggested previously legally offensive status. It is perhaps, as feared by Studdert J, that standards have slipped. It may also be that they have simply changed. As it was eloquently put by Hogarth J in *Dalton v Bartlett* 3 SASR 1972 at 557, (considering, inter alia, "get fucked"),*

"There is a continuous process by which language, like money, loses its value; and in this usage the word has lost all meaning. It may be full of sound and fury, but it signifies nothing."

Magistrate Heilpern concludes:

"Some people may be offended by such words, but I am not satisfied beyond a reasonable doubt that it is offensive within the meaning of the section. There is doubt in my mind that a reasonably tolerant and understanding and contemporary person in his or her reactions would be wounded or angered or outraged..."

In short, my view is that community standards have changed and that I am not satisfied beyond a reasonable doubt that the language used was offensive within the meaning of the Act in the factual circumstances of this case. "

If 'fuck' in a criminal court is not considered to be 'offensive' under contemporary community standards in a public forum, it's very hard to consider the more subtle reference to 'turd' to breach the standard of section 2.5 of the AANA Code of Ethics.

*AANA past cases: In the case of *Epoch Australia* (0036/10), the Panel determined that the advertisement did not breach Section 2.5 of the Code for the use of the phrase 'get your shit together' used to promote the self-help course. The Panel noted:*

"..the phrase 'get your shit together' is a common phrase now used in Australia. The Board considered that it was used in the relevant context of a self-development course. The Board recognised that some members of the community would find the



phrase inappropriate, but considered that the advertisement contained language that most members of the community would not consider strong or obscene and not inappropriate for the service being advertised.”

This rationale was also applied in Case Number 0330/17, whereby consumers received an email advertisement from Typo containing an image of a jar with a sticker on it that featured the wording “Shit I’m Saving For” to promote saving to purchase travel accessories. The Panel noted:

“..that the email promotion was sent to subscribers of the brand TYPO. The Board noted that the store is well known for selling and promoting products that include language of this nature.. and that in the context of this particular brand, the use of the word ‘shit’ was not language that was considered strong or obscene and not inappropriate for the product being advertised.”

The Panel considered that the advertisement did not use strong or obscene language and determined that the advertisement did not breach Section 2.5 of the Code.

Section 2.6

No issue appears to arise in relation to 2.6. Even if it could be argued that section 2.6 is relevant, P&G does not believe that the the Advertisement depicts or endorses a method of using the toilet which exposes the featured actor to any risk of infection or health complications as a result of poor sanitation or hygiene. It is clear to a reasonable consumer that the featured actor is in costume which is a fantastical, comedic representation of a bowel movement in the metaphorical sense and not a depiction of a real life scenario, nor an endorsement that members of the community should physically wear human excrement when they use the bathroom.

We wish to emphasise that the AANA Code of Ethics does not contain a general provision on decency in advertising, as may be seen in the New Zealand Advertising Standards Code . While we don’t believe the Advertisement offends against a general standard of decency and social responsibility expected by the community, it would be beyond the jurisdiction of Ad Standards to consider the complaint against a general decency standard.

While respecting differences of opinion, P&G believe that most of the community would see the Advertisement as acceptable in the context of the promotion of a fibre supplement for the relief of symptoms of constipation. For example, as at 16 May 2019, the post on Metamucil’s Facebook page which features an extended version of the Advertisement, has recorded 484 ‘likes’, 424 ‘laughs’, 47 ‘loves’, 1 ‘shock’ and 1 ‘disappointment’ out of 306,000 views. This equates to a measurable 0.2% of feedback on an extended version of the Advertisement being negative (based on interactions) on a social media forum, which is the significant minority.



Further, the Gutsy and Nugget series of executions, of which this Advertisement comprises the third instalment, has been internationally recognised and lauded by the marketing community. For example, the first instalment of the execution, “The Poo Romance”, which depicts the same actors, humour and analogies to engage and entertain the audience, won three bronze awards at the London International Awards, including for copywriting. The London International Award is a global and industry acclaimed annual award honouring excellence in advertising, digital media, production, design, music and sound. The Awards “stand for great creative ideas and execution”. The second instalment of the execution, “Gutsy”, was awarded a silver and bronze award at the New York Festival’s Global Awards. The Global Awards are dedicated to excellence in healthcare and wellness and pharma advertising and communications on an international basis. The Global Awards acknowledge that navigating illness is an inevitable truth, and the purpose behind the Awards is to recognise healthcare product “advertising and communications [which] have the ultimate goal of improving patient outcomes.”

It is difficult to reconcile a handful of negative commentary expressed about the use of unexpected language with the global recognition received for the Metamucil series of executions, which acknowledge the thought-provoking, edgy and evocative nature of the advertising which helps to eliminate shame and embarrassment associated with constipation, breakdown communication barriers by encouraging discussion and enable consumers to seek relief and improve health outcomes through the power of humour and absurdity.

We sincerely trust that these comments assist Ad Standards in considering the complaint.

If we can be of further assistance with further information or answering any questions, please do not hesitate to let us know.

1 See <https://en.oxforddictionaries.com/definition/turd>, viewed on 16 May 2019.

2 AANA Code of Ethics Practice Note, accessed on 16 May 2019 via http://aana.com.au/content/uploads/2018/11/AANA_Code-of-Ethics_Practice-Note_November2018.pdf

3 At [34]. Case accessible at

<https://www.caselaw.nsw.gov.au/decision/549f788d3004262463a8d568>

4 At [36]. Case accessible at

<https://www.caselaw.nsw.gov.au/decision/549f788d3004262463a8d568>

5 At [37]. Case accessible at

<https://www.caselaw.nsw.gov.au/decision/549f788d3004262463a8d568>

6 See Rule 1(c) of the Advertising Standards Code, accessed on 20 May 2019 via <https://www.asa.co.nz/codes/codes/advertising-standards-code/>

7 Refer to <https://www.liaawards.com/about/lia/>, accessed on 14 May 2019.

8 Refer to <https://www.theglobalawards.com/Competition>, accessed on 14 May 2019.



THE DETERMINATION

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 complainants' concerns that the advertisement:

- is on at an inappropriate time (during meals)
- contains direct graphic references to excreta
- contains a sound effect of faeces dropping into a toilet bowl which is inappropriate
- contains the word turd which is coarse and inappropriate for children to hear

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

The Panel noted that this television advertisement features a man in a brown costume designed to represent faeces and a woman in an orange Metamucil costume. The man is seated behind a desk with a nameplate reading 'The Turd We Deserve' and a banner for the 'Gut and Nugget Alliance'. The man addresses the camera as though it is a campaign advertisement. A man dressed in a colon costume holds an informational board with a diagram showing how the product works. At the end of the ad the man dressed as faeces enters a bathroom and closes the door and the sound of something splashing into water is heard. The dialogue includes the phrase 'a vote for the turd we deserve'.

The Panel noted the complainant's concerns that the references, visual representations and sound effects of bowel movements and faeces is not appropriate for television, especially during mealtimes. The Panel noted that the timing of an advertisement on television is based on the CAD rating received from Free TV and a media placement schedule, and that issues of timing alone are outside of Ad Standards' jurisdiction.

The Panel acknowledged that many viewers would find the imagery and sound effects to be in very poor taste however issues of poor taste are not an issue under section 2 of the Code.

The Panel 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 Panel noted the complainants' concerns that the use of the word 'turd' was offensive and inappropriate for an audience which would include children.

The Panel considered the advertiser's response that the dictionary definition of 'turd'



is a lump of excrement, and that the word has been used in this context in the advertisement.

The Panel considered that the product being advertised is a fibre supplement designed to help with digestive health and regularity of bowel movements. The Panel considered that the reference to, and depictions of, excrement is appropriate in the context of advertising this product.

The Panel noted that the advertisement had been given a G rating by CAD and as such the advertisement was likely to play at all times of day, including to child audiences.

The Panel considered that they had considered the language 'shit' and 'crap' in case 0204/16, in which:

"The Board noted that the advertisement is for a business that specialises in trauma and crime scene cleaning. The Board considered that in the context of this advertisement, the advertiser uses the terms faeces and urine when they talk about their work but notes the terms that may be more familiar and these includes piss, poo, shit, crap. The Board acknowledged that some members of the community may find these words to be inappropriate language however the Board considered that most members of the community would find them to be mild and inoffensive. Overall the Board considered in the context of an advertisement for this product, the words are not inappropriate, strong or obscene."

In the current case, the Panel considered that the word 'turd' would be considered by most members of the community to be mild and part of the accepted vernacular. The Panel acknowledged that some members of the public would prefer for this term not to be used in a context where children could hear it, however considered that most members of the public would consider the use of the word to be not inappropriate when used in this context. The Panel considered that in the context of advertising a product related to digestive health and bowel regularity the word 'turd' is not inappropriate, strong or obscene.

The Panel considered that the advertisement did not use language which was inappropriate in the circumstances and did not contain strong or obscene language. The Panel determined that the advertisement did not breach Section 2.5 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaint.

