



Case Report

1	Case Number	0074/17
2	Advertiser	Universal Pictures
3	Product	Entertainment
4	Type of Advertisement / media	TV - Pay
5	Date of Determination	22/02/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

Scenes from the movie Fifty shades Darker are shown. These scenes include glimpses of a couple in a passionate embrace and kissing and also a scene that includes a woman holding a gun.

THE COMPLAINT

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

The ad was shown at 8:14pm during a G rated show on Fri 3rd Feb on Foxtel Lifestyle Food +2. This is a child rated show and the ad was did not meet this rating.

THE ADVERTISER'S RESPONSE

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

The below response is in relation to the complaints received regarding the UNIVERSAL PICTURES advertising for FIFTY SHADES DARKER, specifically in regards to the TVC advertisements depicting sex/nudity which has caused offence to some viewers.

Universal Pictures International Australasia adhere to the AANA Advertiser Code of Ethics.

Section 2.4 of the Code states “Advertising or Marketing Communications shall not present or portray sex/nudity unless it is justifiable in the context of the product or service advertised.”

Fifty Shades Darker is a romantic film which contains numerous scenes which are ‘sexy’ in nature. It would therefore be reasonable to justify that our advertising materials have been produced within the context of the product being advertised.

Universal Pictures strive to advertise films of this content in a manner that remains appropriate for all consumers.

All advertising content from Universal Pictures is broadcast on FTA TV once rated by the Commercials Advice Board which is industry compliant with the advertising standards code of conduct.

To ensure due diligence, prior to activity going live IMD (on behalf of Universal Pictures) liaises with CAD to obtain approval on the FIFTY SHADES DARKER TVC spots.

Universal Pictures produced a number of TV spots for the FIFTY SHADES DARKER TV campaign and each spot was classified by CAD - the TV spots in question received a J rating (attached are the key number/material instructions which were provided to the TV networks)

In this instance, we obtained CAD clearance to display the advertisement according to the guidelines provided for a J rating.

The following approval was obtained by Universal Pictures from CAD:

Parental Guidance/Warning “J” Definition: Parental Guidance Recommended/Care in placement May be broadcast at any time of day, except during P and C programs or adjacent to P or C periods. Exercise care when placing in programs principally directed to children

The above CAD guidelines were adhered to and the spot was cleared for broadcast at any time of day except in P or C rated programming.

Universal Pictures and MediaCom exercised care with the planning and selection of the TV schedule and focused on programming that skews 18+.

We have also requested substitution from our media owner partners which further verifies that we have been specifically targeting an 18+ audience for this film. – to be provided upon request.

Please also note that all advertising materials for this film have displayed the CTC (Check the Classification) logo for the required duration.

We apologise for any distress caused and would like to reassure all parties involved that we have adhered to all required standards and the industry code of conduct in relation to the advertising materials and placements for this film.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant's concern that the advertisement is promoting a movie for adults and is not appropriate for viewing by children.

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

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board noted this advertisement is promoting the movie, "Fifty Shades of Grey" and features some scenes from the movie.

The Board noted that the overall theme of the books the movie is based on, contains consensual sexual themes but considered that the advertisement itself does not depict any scenes or images which would encourage or promote sexual violence, consensual or otherwise.

The Board noted that in one scene we see a woman firing a gun. The Board noted that while the main female character is standing in front of the woman firing the gun the Board considered that the gun is clearly being fired to the side of her, and not at her. The Board noted that this scene is very brief and considered that in the context of a promotion for a movie which has an overall tone of menace it is not inappropriate to show a woman firing a gun.

The Board considered that the advertisement did present or portray violence which was justifiable in the context of the product advertised.

The Board determined that the advertisement did not breach Section 2.3 of the Code.

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience".

The Board noted the complainant's concerns that it is not appropriate to advertise a movie for an adult audience at times where children can view it.

The Board noted it had previously dismissed similar complaints about the Fifty Shades of Grey movie in case 0047/15 where:

"The Board noted the movie is based on a contemporary novel which most members of the community would be familiar with as being an adult book about a sexual contract between a man and woman and containing sexually explicit content. The Board noted that some of the complainants were concerned about the promotion of an adult themed product during times when children would be watching television. The Board noted that the advertisement had been rated 'J' by CAD which means it is a PG style advertisement for an 'M' or 'MA' movie and can therefore be aired in PG programming and timeslots.

The Board noted the content of the advertisement and considered that the scenes chosen were relatively mild given the nature of the movie. The Board noted that there is no explicit nudity,

no sex scenes and whilst we see the main character wearing a blind-fold this scene is very fleeting and is only mildly sexualised.

The Board acknowledged that some members of the community would prefer that this type of movie was not promoted on television at times when children could view it but considered that overall the content of the advertisement was not inappropriate in the context of the relevant broad audience.”

The Board noted the identical advertisement was aired on Free TV and had received a J by CAD. The Board noted that while the movie itself is rated MA15+ the advertisement is rated according to the content of the advertisement and not the content of the whole movie.

The Board noted that the lifestyle channel where the advertisement was viewed features programs about food, travel, gardening, travel and parenting tips. The Board considered that the nature of programming on this channel would appeal predominantly to an adult audience.

The Board noted that some scenes in the advertisement featured passionate kissing but considered that these scenes are brief and are not explicit, the overall level of nudity is very mild and in the Board’s view the content of the advertisement was not inappropriate for a broad audience which would primarily be adults.

Overall, the Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience and determined that the advertisement did not breach Section 2.4 of the Code.

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