Case Report

1. Case Number :	**0159-24**
2. Advertiser :	**Bumble**
3. Product :	**Professional Service**
4. Type of Advertisement/Media :	**Billboard**
5. Date of Decision:	**3-Jul-2024**
6. Decision:	**Dismissed**

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity
AANA Advertising to Childrens Code\2.3 Sexualisation

DESCRIPTION OF ADVERTISEMENT

This billboard advertisement features two photos, one of a woman sticking her tongue in a man's mouth and the other of a smiling woman on her own. There is text that reads "Introducing the new. We've changed so you don't have to. Introducing the new. That's probably enough 'me time' now don't you think?".



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Shows a photo of a woman sticking her tongue down a man's mouth. The image is quite large and clearly shows the woman's tongue stuck out in a sexualised manner going into the man's mouth. My young child saw the image as drove past and was

confused by the image, I didn't know how to respond and was upset about being put in a situation where my son is being exposed to pornographic like content.

This advertisement showed behaviour that could only interpreted as sexual (ie not merely affectionate, such as a hug or a kiss) and was in close proximity to a childrens' playground, from which it was easily visible. Its content was overt enough that small children were heard to comment on it ("Why is the lady licking the man?" "Is that sex?" and so on.)

THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response.

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Children's Advertising Code (the Children's Code) or the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement is inappropriate for placement where it may be viewed by children and the broad community.

The Panel viewed the advertisement and noted the advertiser had not provided a response.

The Panel noted that for the provisions of the Children's Code to apply, the advertisement must be found to target children under 15 years of age.

Does the advertisement target children?

The Panel noted that the Children's Code defines "target children" as:

"Target Children is determined by the context of the advertisement and the following three criteria:

1. *Nature and intended purpose of the product being promoted is principally or significantly appealing to Children;*
2. *Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is principally appealing to Children;*
3. *Expected average audience at the time or place the advertisement appears includes a significant proportion of Children."*

The Panel noted that the Practice Note provides guidance on the interpretation of "target children":

"All three criteria will be considered by the Community Panel in determining whether or not advertising targets Children. The weighting given by the Community Panel to each of the three criteria will be determined on a case by case basis. In the event of a complaint being considered by the Community Panel, the advertiser should be in a position to provide details in terms of the nature and intended purpose of the product, the presentation of the advertisement content and the expected average audience at the time or place the advertisement appears.

"In relation to the third criteria, measures to determine if Children are likely to be a 'significant proportion' of the expected average audience may include one or a combination of the following:

- *Compliance with the Outdoor Media Association Placement Policy and Health & Wellbeing Policy which regulate the placement of advertising at primary and secondary schools which are locations where Children regularly and predictably gather. Where accurate program audience data is not available, the Community Panel may have regard to other factors listed above such as the program content, the time or the location where the advertisement is being shown (in line with the above provision)."*

Point 1: Is the nature and intended purpose of the product principally or significantly appealing to children?

The Panel noted that the advertised product or service is promoting a dating service. The Panel considered that this would not be principally or significantly appealing to children.

Point 2: Is the content of the advertisement principally appealing to children?

The Panel noted that the advertisement features dimly lit images of couples and considered that this would be unlikely to attract the attention of children. The Panel noted the bright yellow colouring of the text panels and considered that while this may attract the attention of children, it would be equally likely to attract the attention of adults. The Panel therefore considered that the advertisement was not principally appealing to children.

Point 3: Does the expected average audience of the advertisement include a significant proportion of children?

The Panel noted that the advertisement is placed on a billboard and that the audience would be broad and would include children. The Panel noted that the advertiser had not provided information on placement, and while the complainant had referred to

placement near a children's playground, the Panel considered that audience for the advertisement would be unlikely to include a significant proportion of children.

Targeting children conclusion

The Panel considered that the product would not have appeal to children, the content of the advertisement was not principally appealing to children, and audiences for the advertisement were unlikely to include a significant proportion of children.

The Panel therefore found that the advertisement did not target children and therefore the provisions of the Children's Code did not apply.

Code of Ethics Section 2.4: Advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code states:

> *"Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisements for toiletries and underwear) is generally permitted but note the application of the relevant audience. More care should be taken in outdoor media than magazines, for example.*
>
> *Images of naked couples embracing when viewed in a public space, has been found to be inappropriate and to not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience."*

Does the advertisement contain sex?

The Panel considered whether the advertisement contained a depiction of sex. The Panel noted the definition of sex in the Practice Note is "sexual intercourse; person or persons engaged in sexually stimulating behaviour".

The Panel noted that the first image in the advertisement depicted a woman licking the mouth of a man. The Panel considered the couple appeared to be fully clothed, and the action appeared more playful than sexual. The Panel considered the advertisement did not contain sex.

Does the advertisement contain sexuality?

The Panel noted the definition of sexuality in the Practice Note is "the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters".

The Panel noted the advertisement was for a dating service and depicted two people in close proximity, with one licking the other, and considered this was a depiction of sexuality.

Does the advertisement contain nudity?

The Panel noted that the definition of nudity in the Practice Note is "the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity".

The Panel noted that the people in the advertisement were fully dressed and considered that the advertisement did not contain nudity.

Is the issue of sexuality treated with sensitivity to the relevant audience?

The Panel noted that the definition of sensitivity in the Practice Note is "understanding and awareness to the needs and emotions of others".

The Panel considered that the requirement to consider whether sexual suggestion is 'sensitive to the relevant audience' requires them to consider who the relevant audience is and to have an understanding of how they might react to or feel about the advertisement.

The Panel noted that this image appears on a billboard and considered that the relevant audience would be broad and would include children.

The Panel considered that the depiction of the woman licking the man would be thought in poor taste and unappealing by some people who would view the advertisement, however considered that the advertisement was not strongly suggestive of sexual activity. The Panel considered that the ad was not overtly sexual.

The Panel therefore considered that the depiction of sexuality in the advertisement was not explicit or inappropriate to be viewed by a broad audience.

Section 2.4 Conclusion

The Panel concluded that the advertisement did not breach Section 2.4 of the Code.

Conclusion

Finding that the advertisement did not breach any other section of the Children's Code or the Code of Ethics the Panel dismissed the complaints.