



Case Report

1	Case Number	0005/16
2	Advertiser	Entertainment One
3	Product	Entertainment
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	10/02/2016
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

The advertisement is a 15 second TV trailer for the film 'Dirty Grandpa', starring Robert De Niro and Zac Efron, with the tag line 'This roadtrip with grandpa is about to get dirty' and 'In cinemas January 28'. The advertisement features scenes from the film, including De Niro commenting that he has not had sex in 15 years and squirting sunscreen on a young woman's chest.

THE COMPLAINT

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

Watching the Big bash cricket with my young kids, the advert was for a MA 15+ movie 'Dirty Grandpa' of which the advertised lines included "I haven't had sex in 15 years" and a dialogue of how that was trying to be remedied. Pretty inappropriate advertising for a MA 15+ movie in essentially a 'family' timeslot for the cricket which is being actively marketed to young kids!

THE ADVERTISER'S RESPONSE

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

We understand the complaint is about the 15 second TV trailer with a TV CAD rating of 'A' (the 15 Second A Rated Spot) for the feature film 'Dirty Grandpa', rated MA15+ for strong sex scene, crude sexual references, nudity, drug use and coarse language (the Film). The Film is an irreverent comedy in which an uptight lawyer (Zac Efron) is tricked into taking a road trip with his foulmouthed grandfather (Robert De Niro) to Daytona Beach for Spring Break.

eOne commissioned 4 TV spots for the Film, all of which have been CAD rated and have had CAD numbers issued by Commercial Advice Pty Ltd, which eOne provided to eOne's media buyer, Atomic 212, and to Channel 10. These are:

- 1. the 15 Second A Rated Spot (Key number: E1DGP15002; CAD Ref: A2IX4EPE)*
- 2. the 30 Second M Rated Spot (Key number: E1DGP30003; CAD Ref: M2H4LEPE)*
- 3. the 15 Second J Rated Spot (Key number: E1DGP15001; CAD Ref: J2GTUEPE)*
- 4. the 30 Second J Rated Spot (Key number: E1DGP30007; CAD Ref: J2JFEEPE)*

We understand Channel 10 was aware of the Key number, CAD Reference number, CAD TV classifications and when each spot should be played.

Unfortunately, although the TV spots were officially classified and had the correct CAD Reference numbers, the attached Channel 10 TV spot report appears to show that the 15 Second A Rated Spot was mistakenly played earlier than its 'A' rating would usually allow. To the best of our knowledge, this was simply a technical issue or mistake by Channel 10 which we had no control over.

In the 15 Second A Rated Spot, Robert De Niro says the line 'I haven't had sex in 15 years'. The 15 Second J Rated Spot does not contain this line and if this was played instead of the 15 Second A Rated Spot, as it should have been at this timeslot, we believe that the single complaint received would not have occurred.

We notified Channel 10 through our media buying agency Atomic 212 that Channel 10 ran the A-Rated Spot at the wrong time. We understand this was due to an issue with Channel 10's internal classification report which allowed the A-Rated Spot to run outside the CAD restricted time. Channel 10 assured us they manually checked the CAD key numbers for the rest of the campaign to ensure this did not happen again;

The A-Rated Spot was last aired on 16 January 2016 and will not be aired again; and

From 17 January 2016, we replaced the A-Rated Spot and our other previous J-Rated 15 second TV spot with two new 15 second TV spots. The new spots are respectively rated PG and M.

In light of the above, we do not believe we have breached section 2.2 the AANA Code of

Ethics.

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 concerns that the advertisement features a reference to not having had sex for a period of time and is not appropriate for children to view during the cricket.

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

The Board then 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 this television advertisement promoting a forthcoming movie, *Dirty Grandpa*, features scenes from the movie.

The Board noted the complainant’s concern about the depiction of a scene from the movie which includes the line, “I haven’t had sex in 15 years”.

The Board noted that CAD had rated this advertisement ‘A’ which means an MA style advertisement for R18+ classified cinema films which can be broadcast between 8.30pm and 5am on any day and must not be shown during sports programs which commence before 8.30pm. The Board noted the complainant’s concern that the advertisement aired at 7.45pm during the Big Bash cricket.

The Board noted the advertiser’s response that there are different versions of the advertisement with different CAD ratings and that the advertisement the complainant viewed was rated ‘A’ and should not have aired during the cricket. The Board noted the advertiser’s response that the incorrect airing of the advertisement was a result of a technical error by the TV station and was not something which the advertiser had any control over.

The Board noted that its role was to assess complaints received against the Code based on the time the complainant viewed the advertisement, regardless of any scheduling errors on the part of the television station.

The Board noted the opening scene of the advertisement features a young woman wearing shorts and a crop top asking two men, played by the actors Robert De Niro and Zac Efron, if they want to ‘party some babies in to us’. The Board noted that the woman bends over to lean against a car during this conversation and we see one of the men, Robert De Niro, appear to be admiring her bottom. The Board noted that we do not see the woman’s bottom in this scene and considered that the suggestion that De Niro is checking her out is implicit rather than explicit. The Board considered that the reference to partying some babies in to the girls is not explicit or strongly sexualised and considered that this scene did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience which would include children.

The Board then noted the scene where Robert De Niro comments to Zac Efron that he has not had sex in 15 years. The Board noted that just prior to this comment we see both actors admiring bikini-clad women and considered that the overall scene is sexualised and does raise the issue of sex in a manner which does not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children.

The Board noted that the advertisement also features a scene where a white liquid is squirted over a female actress's bikini clad cleavage. The Board noted that the camera then pans round to reveal that De Niro has accidentally squirted sunscreen from a bottle. The Board noted that De Niro apologises and says, 'that never usually happens' to which the woman replies, 'Really? It happens to me all the time' whilst rubbing the cream on to her chest. The Board noted that this scene is suggestive of a man ejaculating over a woman's chest and considered that whilst the visuals soon reveal it is sunscreen in the Board's view the level of innuendo in the imagery, coupled with the sexual innuendo in the woman's response, amounts to an overall depiction which does not treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.

The Board acknowledged that the advertisement had been aired in the incorrect timeslot but considered that its placement during the Big Bash cricket at 7.45pm meant the advertisement did not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children.

The Board determined that the advertisement did breach Section 2.4 of the Code.

The Board 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 Board noted the reference to sex in the advertisement. The Board acknowledged that some members of the community may be uncomfortable with the use of the word sex in an advertisement but considered that the word sex is not language which most people would consider strong or obscene. The Board noted that when the word sex is used in the advertisement the two male actors are fully clothed but considered that just prior to this they are on a beach admiring bikini clad women. The Board noted the overall sexualised tone of the advertisement and considered that whilst the word sex is relatively mild on its own, in the Board's view its use in the context of an advertisement which features sexualised content it is not appropriate for an advertisement which can be viewed by children.

The Board considered that the advertisement did use language which was inappropriate in the circumstances and determined that the advertisement did breach Section 2.5 of the Code.

Finding that the advertisement did breach Sections 2.4 and 2.5 of the Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

While we are disappointed that the claim has been upheld, we understand the Board's decision and sympathise with the complainant. In light of this, we would like to note the following:

1. eOne had the 15 second TV Spot properly CAD rated as 'A' (the A Rated Spot) which indicated it was not suitable to be aired in the timeslot when the complainant saw it. Once the A Rated Spot was correctly classified, there is nothing else eOne could have done to prevent the A Rated Spot being aired in the wrong timeslot. To the best of eOne's knowledge, this was a one-off error by Channel 10.

2. We briefed our media buying agency and, through them, Channel 10 on the complaint and the error. We intend to continue to work closely with our media buying agency and Channel 10 to ensure we are doing everything in our power to prevent this from happening again.

3. To the best of our knowledge, the A Rated Spot only aired in the wrong timeslot once when the complainant saw it. The A Rated Spot was discontinued on 16 January 2016 and has not been run since.