



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0009-20</b>
<b>2. Advertiser :</b>	<b>PLAY HAWKERS SL</b>
<b>3. Product :</b>	<b>Clothing</b>
<b>4. Type of Advertisement/Media :</b>	<b>Internet</b>
<b>5. Date of Determination</b>	<b>22-Jan-2020</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This internet advertisement features a promotion for a Black Friday sale. The words 'Have a threesome' are superimposed over blurry images of people.

### THE COMPLAINT

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

*The sexualisation of sunglasses for a promotion is highly inappropriate & completely unnecessary. I do not expect to have blurred pornography shoved in my face when trying to purchase sunglasses, encouraging having a sexual threesome through a 3 for 1 special. This ad also is accessible by all ages and young children are potentially targeted & exposed to inappropriate sexual messages. Ad standards need to do a better job at regulating and removing the sexualisation from ads.*

### 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 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 complainant's concern that the advertisement features inappropriate sexual content to promote sunglasses, which may be seen by children.

The Panel viewed the advertisement and noted the advertiser did not provide a response.

The Panel 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 Panel considered whether the advertisement contained sex, sexuality or nudity.

The Panel noted the Practice Note for the Code states:

"Images which are not permitted are those which are highly sexually suggestive and inappropriate for the relevant audience. Explicit sexual depictions in marcomms, particularly where the depiction is not relevant to the product or service being advertised, are generally objectionable to the community and will offend Prevailing Community Standards."

The Panel considered whether the image depicted sex. The Panel noted the dictionary definition of sex most relevant to this section of the Code of Ethics is 'sexual intercourse; sexually stimulating or suggestive behaviour.' (Macquarie Dictionary 2006).

The Panel considered that the text 'have a threesome' was a suggestion of sexual intercourse, and sexually stimulating or suggestive behaviour. The Panel considered that the advertisement did contain sex.

The Panel considered whether the advertisement depicted sexuality.

The Panel noted the definition of sexuality includes 'sexual character, the physical fact of being either male or female; The state or fact of being heterosexual, homosexual or bisexual; sexual preference or orientation; one's capacity to experience and express sexual desire; the recognition or emphasising of sexual matters'. The Panel noted that the use of male or female actors in an advertisement is not of itself a depiction of sexuality.

The Panel considered that the use of the text 'have a threesome' in combination with heavily pixelated images of people is a depiction of sexuality.



The Panel considered whether the advertisement contained nudity and noted that the dictionary definition of nudity includes 'something nude or naked', and that nude and naked are defined to be 'unclothed and includes something 'without clothing or covering'. The Panel considered that the Code is intended for the Panel to consider the concept of nudity, and that partial nudity is factor when considering whether an advertisement contains nudity.

The Panel considered that the images behind the text were unclear as they were heavily pixelated. The Panel considered that whilst no details could be seen, there was a lot of pixelated skin displayed, and this was a suggestion of nudity.

The Panel then considered whether the issue of sex, sexuality and nudity was treated with sensitivity to the relevant audience.

The Panel considered the meaning of 'sensitive' and noted that the definition of sensitive in this context can be explained as indicating that 'if you are sensitive to other people's needs, problems, or feelings, you show understanding and awareness of them.' (<https://www.collinsdictionary.com/dictionary/english/sensitive>)

The Panel considered that the requirement to consider whether sexual suggestion is 'sensitive to the relevant audience' is a concept requiring 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 concept of how subtle sexual suggestion is or might be is relevant to the Panel considering how children, and other sections of the community, might consider the advertisement.

The Panel noted that this advertisement was on the front page of the company website. The Panel considered that the company did not sell children's sunglasses and that visitors to the website would most likely be adults looking to purchase sunglasses.

The Panel considered that the pixelization of the images adds to the sexual feel of the advertisements. The Panel considered that the link between the words 'have a threesome' and the product is that the advertiser's sale offering was three products for the price of one.

The Panel considered that there was little relevance between the images and the product, however considered that this is a brand known for their edgy advertising targeted at a young adult demographic, and therefore the sale promotion would be consistent with their brand image.

The Panel considered that the images were so heavily pixelated that it was impossible to identify what was happening in the images. The Panel considered that whilst there was a suggestion of sexual activity, this was not explicit.



The Panel considered that the images and text in this advertisement were mild and not sexually explicit and did treat the issue of sex, sexuality and nudity with sensitivity to the relevant adult audience and did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach any other section of the Code, the Panel dismissed the complaint.