



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0009-21
2. Advertiser :	MTV
3. Product :	Entertainment
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	10-Feb-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity
AANA Code of Ethics\2.5 Language

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a series of flashing images and scenes, including an image of a dildo, in conjunction with a song.

THE COMPLAINT

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

A dildo was flashed among the many images during the add, while a swear word was badly silenced. These kinds of ads are unacceptable.

*A song that continues "i like to" blah blah until "i like to F**k" half bleeped out but clealy "F**k. My kids like "I'm a celebrity" show and at 9 and 10 i'm happy for them to watch it but this ad is repetitive and disgusting.*

THE ADVERTISER'S RESPONSE



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

ViacomCBS (the owner of MTV) has reviewed the complaint and Advertisement and contends that the Advertisement complies with the AANA Code, particularly with regards to Section 2.

We note the complainant alleges the advertisement was viewed on 7 Flix on commercial free-to air television on 8 December 2020 between 10.00pm and 11.00pm. However, the advertisement was not booked nor consent given for this advertisement to be placed on free-to-air broadcast television outside of Network 10. Rather, the campaign was primarily aimed at digital and social media with a target demographic of 18-24 years of age.

However, the commercial was broadcast on 10 SHAKE (Perth) on 8 December 2020 at 11.19pm. It is possible that the viewer may be referring to this broadcast. The commercial was classified M and the broadcast during an MA classification zone on the evening in question. We consider the scheduling of the commercial complied with the Commercial Television Industry Code of Practice. The program content on 10 SHAKE in the evenings includes similarly classified content from MTV and related channels that the target audience would be familiar with.

The commercial was broadcast during The Cleveland Show which commenced broadcast from 11.00pm and was classified M. Under the Code, M classified M classified content may be broadcast from 7.30pm and MA content from 8.30pm, subject to certain exceptions. Based on the results from OzTAM (5 City Metro, Consolidated 7), 100% of the total audience (11,476 viewers) nationwide was aged 18+, and there were negligible number of viewers in Perth (the Audience demographics).

To specifically address the Complaint in relation to the relevant sections (sections 2.4 and 2.5) of the AANA Code of Ethics:

- *The Advertisement was appropriate to the target audience (18-24 demographic);*
- *The fleeting image of the pink dildo and the 'f-word' referenced in the soundtrack can be accommodated within the M / MA classification and broadcast at the time in question. The image and backing track were contextualised in the Advertisement featuring very brief references to pop culture and a brand famous for music.*
 - o *With reference to the AANA Code of Ethics Practice Notice (Practice Notice) on section 2.4, 'discreet portrayal of nudity and sexuality in an appropriate context is generally permitted'. The Advertisement made no reference to nudity or persons in sexually suggestive contexts, and the image of the pink dildo was fleeting (less than 5 seconds) and broadcast within an MA classified time zone. As such, the treatment of sex and sexuality was sensitive, discrete and unlikely to appear unsuitable in an MA classified time zone; and*



- o With reference to the Practice Notice on section 2.5, whilst use of the f-word is generally not permitted, the Board 'will have regard to the contextual and conversational nature of social media' and that 'in some cases use of the vernacular in UGC may not offend prevailing community standards of the relevant audience.' Given that the Advertisement was classified as M / MA and scheduled in a corresponding timeslot where the f-word is permitted in programming, references to the f-word would be commonplace among social media communications of an adult audience, in the same way that reference to the f-word in a pop song (as used in this Advertisement) would not run counter to community standards of an adult audience particularly with a brand as synonymous with music as MTV. Furthermore, the word was only heard in the backing track rather than expressed by any person onscreen;*
- A key brief for the creation of the Advertisement was to include contemporary pop culture references from general news relevant to youth audiences aged 18-25. With respect to the complainant's reference to the dildo, the inclusion of this image (within an M / MA classified time slot) was a pop culture reference to statements made by American rapper Cardi B relating to women's empowerment and responding to discrimination.*

We do not consider the other provisions of Section 2 of the AANA Code are relevant to the Complaint on the following grounds:

- Section 2.1 – The Advertisement in question did not specifically single out types of behaviour or attempt to depict types of behavior among any of the sub-groups listed under the Practice Note (race, ethnicity, nationality etc);*
- Section 2.2 – The Advertisement did not attempt to portray any individuals in ways that could be considered exploitative or degrading;*
- Section 2.3 – The Advertisement did not include graphic images of violence or sexual violence;*
- Section 2.6 – The Advertisement did not relate to consumer material or goods where concerns of prevailing community standards on health and safety were relevant;*
- Section 2.7 – The Advertisement was clearly a promotion for the MTV website and would have been distinguishable as such by any ordinary viewer.*

Furthermore, the Advertisement does not constitute advertising or marketing communications to children and hence the AANA's Code of Advertising & Marketing Communications to Children is not applicable.

Overall we consider that the Advertisement did not depict material contrary to prevailing community standards and the complaint should be dismissed.



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:

- A dildo was flashed among the many images during the ad
- A swear word was badly silenced
- Advertisements showing sex objects and obscene language are inappropriate for children to view.

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

Section 2.4: Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

Does the advertisement contain 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 while the advertisement did briefly depict a sex toy, 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 depiction of a sex toy and the depiction of a woman dancing in a g-string and considered that the advertisement did contain 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 advertisement contains a brief scene of a woman shown from behind dancing in a g-string, and a shirtless man. The Panel considered that the advertisement did contain partial nudity.

Are the issues of sexuality and nudity 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 the advertisement received an ‘M’ classification from ClearAds meaning that it may be broadcast from 7.30pm. The Panel also noted the advertiser’s response that the advertisement only aired during MA classification zones, i.e. from 9.30pm.

The Panel noted the advertiser’s response that the advertisement includes contemporary pop culture references from general news relevant to youth audiences aged 18-25 and that the dildo was a pop culture reference to statements made by American rapper Cardi B relating to women’s empowerment and responding to discrimination.

The Panel noted that the image of the dildo was on screen for less than a second. The Panel noted that the scene depicting a woman shown from behind dancing in a g-string, and the scene depicting a shirtless man were also on screen for less than a second.

The Panel considered that a mild reference to a sex toy and mild nudity is not inappropriate for the relevant adult audience viewing television after 9.30pm.

Section 2.4 Conclusion

The Panel found that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

Section 2.5: 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 that the advertisement uses the word “fuck” and that it is beeped out. The Panel noted that the word is beeped, but that the beep is insufficient to fully cover the word.

The Panel considered that the word is not used in a manner that is aggressive or demeaning. The Panel considered that the word is not prominent in the advertisement, and is relevant to the song used as the backing track. The Panel again noted the classification of the advertisement, and the timeslot in which it aired.



The Panel considered that the use of the word in a song in the context of promotion for an adult station is not inappropriate for the relevant adult audience viewing television after 9.30pm.

Section 2.5 conclusion

The Panel determined that the advertisement did not breach Section 2.5 of the Code.

Conclusion

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