



Ad Standards Community Panel  
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Ad Standards Limited  
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## Case Report

|                                  |               |
|----------------------------------|---------------|
| 1. Case Number :                 | 0025-20       |
| 2. Advertiser :                  | Tactile Games |
| 3. Product :                     | Entertainment |
| 4. Type of Advertisement/Media : | App           |
| 5. Date of Determination         | 22-Jan-2020   |
| 6. DETERMINATION :               | Dismissed     |

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This advertisement plays while playing another app. There are three versions:

1. A woman has a positive pregnancy test and tells a blonde man. He leaves. She appears cries on the steps briefly, before stopping and rubbing a line off the pregnancy to show that it was negative, not positive.
2. A woman cannot close the washing machine lid so sits on it. She starts smiling with the vibrations and goes cross-eyed. The next scene shows her an three friends going to a laundromat with candles and wine where they all sit on a washing machine.
3. A scene showing two women and a man a Christmas dinner. One woman looks bored/sleepy, and the other woman is shown to go under the table. As she does, the man jerks and the table bounces once.

### THE COMPLAINT

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

*Words with friends is not r rated and could be accessed by a very young demographic. It is a bit creepy and you wonder what sort of game it is. A child could ask to pay for this game, innocuous Lilly's Garden but there are masturbation, pregnancy and head job scenarios.*



*These ads sometimes feature adult content which I feel is inappropriate as the age of the WWF player could be quite young. The title Lilly's Garden does not reflect adult content. 3 scenarios in particular I was a bit shocked to see. 1. Lilly has a positive pregnancy test and the boyfriend leaves her. 2. Lilly cannot close the washing machine lid so sits on it. Starts smiling with the vibrations, then asks her friend to a laundromat (candles and wine present) whereas they all sit on a machine vibration so basically masturbating. 3. The last one sees Lilly at Christmas lunch looking sleepy and bored with her ? boyfriend beside her. Next thing another girl goes under the table . It moves and the boyfriend goes from shocked too happy. ? head job. This seems inappropriate. I'm not prudish but am concerned young girls may unwittingly sign up to adult content and other users may know this through a simple free scrabble type game.*

### **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 complainants' concern that the advertisement features adult content which is inappropriate for some users.

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 advertisement 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 Version 1 of the advertisement. The Panel considered that although a pregnancy test is depicted, there is no actual depiction of sex in the advertisement.

The Panel considered Version 2 of the advertisement. The Panel considered that the implied message of this version is that the women are gaining sexual pleasure from sitting on the washing machines. The Panel considered that this is a depiction of sexually stimulating material and that this version of the advertisement did contain sex.

The Panel considered Version 3 of the advertisement. The Panel considered that the suggestion of the advertisement is that one of the women went under the table to perform oral sex on the man. This is indicated by the reaction of the man and the bounce/jerk of the table. The Panel considered that a strong suggestion of oral sex would be considered by most members of the community to be a depiction of sex even if the act itself is not shown.

The Panel considered whether the advertisement featured 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 Version 1 of the advertisement. The Panel considered that a reference to pregnancy is a depiction of sexuality as it involves a reproductive process which is a sexual matter.

The Panel considered Version 2 of the advertisement. The Panel considered that a reference to sexual stimulation and the visual representation of such is a depiction of sexuality.

The Panel considered Version 3 of the advertisement. The Panel considered that a suggestion of oral sex 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 all three versions of the advertisement do not depict any people that are nude or partially nude.

The Panel then considered whether the advertisement treated the issue of sex and sexuality 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 appeared during the game/app Words With Friends. During turns in the game, the free version requires that users watch an advertisement. The paid version of Words With Friends is advertisement-free. The Panel noted that Words With Friends is rated ages 4+ in the Apple Store, and rated PG in the Google Play Store. The Panel considered that although children may be able use the game, given the style of the game (based on Scrabble) the primary audience would be predominately adult.

The Panel considered Version 1 of the advertisement. The Panel considered that while the advertisement contains sexuality in its reference to pregnancy, there is no explicit content or language in the advertisement. The Panel noted that some members of the community may find the suggestion that the woman was dishonest about a pregnancy to be distasteful, insensitive or inappropriate behaviour, this of itself is not an issue under the Code.

The Panel considered Version 2 of the advertisement. The Panel considered that while some adults may consider that the advertisement has clear sexual references, there is no explicit sexual content or language in the advertisement. The Panel considered the suggestion that the women may be gaining sexual pleasure from sitting on the washing machines was not explicit, and children viewing the advertisement would be unlikely to understand that the reference could be considered sexual.

The Panel considered Version 3 of the advertisement. The Panel again considered that while some adults may consider that the advertisement has clear sexual references, there is no explicit sexual content or language in the advertisement. The Panel considered the suggestion that a person may be involved in oral sex was not explicit and children would be unlikely to consider the behaviour to be sexual.



Overall the Panel considered that the three versions of the advertisement did treat the issue and sex and sexuality with sensitivity to the relevant audience of users of a mobile game application.

The Panel determined that the advertisement 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 complaints.