



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0031-20
2. Advertiser :	Naughty Boy
3. Product :	Sex Industry
4. Type of Advertisement/Media :	TV - Free to Air
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 television advertisement is cartoon styled and features a man in the following scenes: a board room; a park; a bedroom; at a computer; holding a statement; signing for a package; and in bed with two other people.

The voiceover states: "We get it, you're a classy kind of guy, doing your best to get by in today's hectic world. Sometimes, your thoughts are nice, and sometimes, they're a bit naughty. Naughty Boy is Australia's premier online male pleasure store and your privacy is our number one priority. Our store name won't appear on your statement, and we'll ship your goodies in a plain box. So whatever or whoever you're into, you'll be sure to find something at naughtyboy.com.au".

THE COMPLAINT

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

At 11pm on a Friday evening, children/teens are still up and watching television. These sorts of ads should not air before midnight at the earliest!!! It's also school holidays which assumes children are up later again.

THE ADVERTISER'S RESPONSE





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

Both of these television commercials have aired after 11pm for the last last 1,000+ evenings what what I can imagine to be hundreds of thousands of times.

We are sorry that this has caused offence in this particular case, however I believe the comments were more around the time that the television commercials were aired, which have been approved by law.

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 the advertisement airs at an inappropriate time and can be viewed by children.

The Panel viewed the advertisement and noted the advertiser did not respond.

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 noted that a brief scene at the end of the advertisement depicts three people in bed together with the voiceover "So whatever or whoever you're into". The Panel considered that most members of the community would likely consider this scene to depict sex, as the clear implication is that those three people are engaging in sexual activity.



The Panel considered whether the advertisement contained 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 noted that the product being promoted was an online adult store. The Panel considered that most members of the community would consider the product being advertised in conjunction with imagery of people in bed and the voiceover to depict sexuality.

The Panel determined that the advertisement did contain 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 people in the advertisement are depicted in clothing throughout the advertisement, except for a scene at the end depicting three people in bed. The Panel considered that this depiction of three people in bed did not depict nudity, as the characters are cartoons and are fully covered by the bedding. Overall the Panel determined that the advertisement did not contain nudity.

The Panel considered whether the advertisement depicted 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 the advertisement received a S rating by ClearAds and therefore may be broadcast between 11pm and 5am on any day.
(<https://www.clearads.com.au/storage/final-clearads-handbook-version-ca12.pdf>).



The Panel noted a complainant's concern that the advertisement was broadcast at 7.45pm. The Panel confirmed with both the advertiser and the television station that the advertisement did not air on the date/time that the complainant indicated.

The Panel noted that the likelihood of children viewing the advertisement at its scheduled time (between 11pm and 5am) was low, and that the advertisement does not show any of the products available for purchase from the online store, or depict any explicit sex scenes or nudity. The Panel considered that children may understand the concept of the advertisement, however considered that given the timeslot in which the advertisement aired that the primary audience of the advertisement would be adult and children would be supervised.

The Panel acknowledged that some members of the community would prefer that this type of product/service not be advertised at all, however the Panel noted that legally such products are able to be advertised and a promotion of that product/service is not of itself a breach of the Code. The Panel considered that the content of the advertisement is not sexually explicit and the advertisement was broadcast after 11pm in line with the S rating. Overall the Panel considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the predominantly adult viewing audience.

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

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaints.