



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0036/19
2	Advertiser	Stan
3	Product	Entertainment
4	Type of Advertisement / media	TV - On Demand
5	Date of Determination	20/02/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.3 - Violence Violence
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language
- 2.5 - Language Strong or obscene language

DESCRIPTION OF THE ADVERTISEMENT

This TV-on-demand advertisement features scenes from the Stan TV show 'Black Monday'. And includes scenes such as a man kicking open a door, a man being slapped, a woman in denim slapping her hand on her buttocks, angry people at the stock market and a woman pointing a gun, a woman straddling a man in an office.

THE COMPLAINT

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

My kids didn't like the swearing, lewd behaviour and violence. That kind of advertising should only be done in evening and within tv programs that are suitably rated.

The ad featured the clear and uncensored use of the f word.

Ad used words "dick" and "motherfucker" at 720pm while our children were watching





tennis - we were streaming on Nine now. Totally in appropriate language at this time of night. Our kids go to bed at 7pm usually but we let them watch tennis until 730pm. Absolutely disgusted that this language is used at a child friendly time slot.

THE ADVERTISER'S RESPONSE

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

1. Facts relating to the Advertisement

- The Advertisement ran for 30 seconds on the 9Now service on 24 January 2019 and on 26 January 2019.*
- The Advertisement is designed to inform viewers of, and to showcase, the program Black Monday.*
- A digital copy of the Advertisement can be found here:
<https://youtu.be/OymaHi0YIHA>*
- The Advertisement appeared online and therefore did not receive a CAD rating and does not have a script. However, for your information we have included a copy of the script for Stan's free-to-air version of this advertisement which contains no material differences to the Advertisement.*
- Black Monday has a "CTC" classification. Stan considers Black Monday is likely to be classified MA15+. This likely classification was determined by Stan's content operations executive Benny May, a trained content assessor.*
- We have now ensured that the Advertisement will only be available between the hours of 9pm and 5am.*

2. AANA Advertiser Code of Ethics (Code)

We have reviewed the relevant sections of the Code and the information and guidance provided on adstandards.com.au in relation to responding to complaints.

In our view, the Advertisement complies in all relevant respects with the AANA Code of Ethics ("Code") and is in step with Prevailing Community Standards.

We address each element of section 2 of the Code below:

- Discrimination or vilification (s2.1)*



The Advertisement does not discriminate against or vilify a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

The complaint did not raise this.

- *Sexual appeal (s2.2)*

The Advertisement does not use sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

The complaint did not raise this.

- *Violence (s2.3)*

The complaint raised concerns around violence.

There are two frames in the Advertisement which could be considered to portray violence.

The first shows a hand slapping a person across the face.

The second shows a woman holding a gun. The gun is not pointed towards the viewer. The gun is not fired. There is no other person present in this frame.

These brief portrayals accurately reflect the program being advertised, which explores the topics of relationships and hardship in a light-hearted, humorous yet sometimes gritty manner. There is nothing in this Advertisement which employs a tone of overt, obscene or gratuitous violence.

Based on the foregoing and taking into account the AANA Code of Ethics – Practice Note we are strongly of the view that the brief portrayals included in the Advertisement were consistent with prevailing community standards and were not obscene particularly in the opt-in environment of on-demand viewing.

- *Sex, sexuality and nudity (s2.4)*

The complaint raised concerns around sex, sexuality and nudity.

However, the Advertisement did not contain any sex or nudity.

There is one frame where a woman is seen placing her knee onto the lap of a man, however both characters are fully clothed and are not engaging in sexual activity.



Based on the foregoing and taking into account the AANA Code of Ethics – Practice Note we are strongly of the view that the footage included in the Advertisement was consistent with prevailing community standards and was not lewd or offensive.

- *Inappropriate language (s2.5)*

The complaint alleges the words “motherfucker,” “fuck” and “dick” are included in the Advertisement.

This is not the case.

The Advertisement does not contain any inappropriate or obscene language.

- *Health and Safety (s2.6)*

The Advertisement does not contain any material which, in our view, is contrary to Prevailing Community Standards on health and safety (including as detailed in AANA Code of Ethics Practice Note), nor does the Advertisement depict any dangerous behaviour which is likely to be imitated by children.

The complaint did not raise this.

- *Distinguishable as advertising (s2.7)*

The Advertisement contains:

- *the onscreen graphic which reads “Only on Stan” for the duration of the Advertisement;*
- *the onscreen graphics at the end of the Advertisement: “Brand New Series” and “Now Streaming”;*
- *the final screen which features the Stan logo and the words “Only on Stan”,*

all of which clearly distinguish the Advertisement as an advertisement. The complaint also notes that it is an advertisement.

3. Stan comments in relation to the complaint

For the reasons set out above, we strongly believe the Advertisement complies in all relevant respects with the Code.

9Now uses systems to prevent digital advertisements from showing at inappropriate time slots. 9Now will ensure the Advertisement is only available between the hours of



9pm and 5am.

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 contained lewd behaviour, violence and obscene language.

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

The Panel noted that the advertisement features scenes from the television program “Black Monday”.

The Panel considered whether the advertisement breached Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Panel noted the complainants’ concerns that the advertisement contained violence.

The Panel noted that CAD ratings are not required for advertisements aired during television shows viewed via on-demand television. The Panel noted that the advertisement was aired during various times of the day, including in the Australian Open and the program ‘Dance Moms’, and considered the programming would likely include children amongst the viewers.

The Panel noted the advertiser’s response that although the program does not yet have a classification, the likely classification is MA15+.

The Panel noted that two scenes may be considered to be depicting violence. The first was a man being slapped and the second was a woman pointing a gun.

The Panel noted the scene of the woman pointing a gun in particular, and considered that the gun is not being pointed towards a person or the viewer, and the gun is not fired.



The Panel considered that the scenes were fleeting and considered that the overall impression of the advertisement was one of action. The Panel considered that while the advertisement contained fleeting scenes of violence, the violence was not overly graphic or gory.

The Panel considered that some violence is justifiable in the context of advertising an MA15+ program and considered that the advertisement did not breach Section 2.3 of the Code.

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 noted the complainants’ concerns that the advertisement contained lewd behaviour.

The Panel considered the scene depicting a woman slapping her hand on her bottom and the scene depicting a woman straddling a man. The Panel considered these scenes to be fleeting images in a montage of scenes from the television program and that the overall impact was only mildly sexual.

The Panel noted that the advertisement did not contain nudity or any other sexual references. The Panel considered that in the context of an advertisement for a television series it is reasonable for an advertiser to show scenes from that program.

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

The Panel 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 Panel noted the complainants’ concern that the language was inappropriate for an audience which would include children. Specifically, complainant’s identified the words “fuck”, “dick” and “motherfucker”.

The Panel noted the advertiser’s response that that language did not appear in the advertisement. The Panel carefully considered the advertisement, and agreed with the advertiser that that language was not present.

The Panel noted that the advertisement is fast-paced, loud and hectic, and considered it possible that complainant’s misheard the advertisement.



Finding that the advertisement did not use strong or obscene language and that the language was not inappropriate, the Panel determined that the advertisement did not breach Section 2.5 of the Code.

The Panel noted the advertiser's response that the advertisement's broadcast schedule had been modified and the advertisement will now only air between the hours of 9pm and 5am.

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

