



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0046/19
2	Advertiser	Parfums Christian Dior
3	Product	Toiletries
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	20/02/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.4 - Sex/sexuality/nudity S/S/N - nudity

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features actress Charlize Theron in a bathhouse, surrounded by other women who are lying by the side of the pool. Ms Theron emerges from the water and walks with some of the other women to the beat of "Flashing Lights" whilst wearing a gown.

THE COMPLAINT

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

Charlize Theron suggestively appeared naked on prime time tv

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this





advertisement include the following:

Description

The Commercial was directed by Romain Gavras, a French director best known for directing M.I.A.'s video for "Born Free". Mr Gavras has won two MTV Video Music Awards in 2012 for Best Cinematography and Best Direction for the video "Bad Girls" for M.I.A.

The Commercial stars Parfums Christian Dior's "J'adore" brand ambassador since 2004, Academy Award winning actress Charlize Theron. The Commercial features the song "Flashing Lights" by Grammy Award winner Kanye West and Ms Theron wears a haute couture dress designed by Maria Grazia Chiuri, which was designed by Ms Chiuri for Dior's spring-summer 2018 haute-couture collection.

The Commercial features Ms Theron appearing in a dreamlike, sensual tableau inspired by Jean-Auguste-Dominique Ingres' masterpiece The Turkish Bath. Ms Theron is immersed in the gold pool of an opulent bathhouse, surrounded by other women who are lying by the side of the pool. Ms Theron gradually emerges from the water and then walks confidently with some of the other women to the beat of "Flashing Lights" whilst wearing the Maria Grazia Chiuri-designed gown.

At the end of the Commercial, Ms Theron simply says "J'adore" to camera and then 'Dior'. Response The Commercial aired on Australian free-to-air and pay television as well as online media (which includes digital/catch-up television, programmatic video and video in social media) for a three week period from 2 December – 24 December 2018 and has now ceased airing.

1 About the Commercial

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and then walks confidently with some of the other women to the beat of “Flashing Lights” whilst wearing the Maria Grazia Chiuri-designed gown.

At the end of the Commercial, Ms Theron simply says “J’adore” to camera and then ‘Dior’.

Ms Theron has been interviewed about the premise behind the Commercial (<https://www.youtube.com/watch?v=dARCNSogamo>) and has stated that the Commercial is about the fact that it is “just a really great time to be a woman right now” and “there is something about the essence of what we did here that felt very unified and felt like a real coming together of femininity and women kind of standing together and being very powerful”.

2 Nature of the complaints

We understand that the Commercial will be reviewed for its compliance with the whole of Section 2 of the AANA Advertiser Code of Ethics (the Code). However, the specific complaint which the ASB has received about the Commercial described it as “Charlize Theron suggestively appeared naked on prime time tv”.

Based on this complaint, we have identified sub-sections 2.2 and 2.4 of the Code as arguably relevant to the Commercial and address them in detail below, including references to the AANA Code of Ethics Practice Note (Practice Note) where appropriate. We understand that the advertisement will be reviewed in its entirety against Section 2 of the Advertiser Code of Ethics. Parfums Christian Dior submits that the Commercial does not raise any issues under any of the other sub-sections of the Code.

3 Alleged breaches of the Code

2.1 Sexual appeal (Section 2.2)

Section 2.2 of the Code restricts the use of sexual appeal:

- (a) where images of minors, or people who appear to be minors, are used; or*
- (b) in a manner which is exploitative or degrading of any individual or group of people.*

Clearly, Ms Theron is not a minor and does not appear to be a minor.

According to the Practice Note, ‘exploitative’ means either taking advantage of the sexual appeal of a person by depicting them as objects or commodities or (b) focusing on their body parts where this bears no direct relevance to the product or service being advertised. ‘Degrading’ means ‘lowering in character or quality a person or group of



persons’.

The Practice Note makes it clear that not all images depicting people who are scantily clad or naked will be unacceptable under this section. This section only restricts material which employs sexual appeal in a manner which is exploitative of or degrading to any individual or group of people.

Clearly, Ms Theron’s sexual appeal is a key component of the Commercial. However, rather than using Ms Theron’s sexual appeal to depict her as an object or commodity, the Commercial is intended to be, and Parfums Christian Dior would contend is, empowering for women. In the Commercial, Ms Theron is depicted as a woman who is aware of, and comfortable with, her sexual appeal. Furthermore, no men appear in the Commercial who might view Ms Theron as an object or commodity and none of the other women in the Commercial interact with Ms Theron in any manner and, accordingly, they do not depict her as an object or commodity.

The Commercial does not focus on any particular part of Ms Theron’s body. Ms Theron is shown from the upper chest up on several occasions at the start of the Commercial, with her body from the chest down immersed in the water and not visible. When Ms Theron emerges from the water, her legs are briefly shown from the knee down. Her entire body is then shown in a silhouette from a distance. Thereafter, Ms Theron is shown in a haute couture full length dress which appropriately covers her body.

Turning to whether the Commercial degrades a person or group of persons, or in this instance Ms Theron or women generally, ‘degrade’ is defined as treating or regarding someone with contempt or disrespect. Parfums Christian Dior contends that there is no contempt or disrespect for Ms Theron in the Commercial. Rather, her beauty is being highlighted and celebrated. Equally, the Commercial does not degrade women generally. Women are not treated with contempt or disrespect in the Commercial. As highlighted by Ms Theron in her comments about the Commercial (mentioned above), the Commercial represents a “coming together of femininity and women kind of standing together”. Ms Theron appears in the Commercial with other beautiful women in gowns who stand together and walk confidently towards the camera and the future. Rather than degrading women, the Commercial celebrates women, their beauty and their strength.

Furthermore, the Commercial has been distributed internationally and is designed to be artistic in nature. As mentioned above, the Commercial was directed by a well-known music video director, Romain Gavras and features Ms Theron who is an Academy Award winner and the Music of Grammy award-winner Kanye West. Our view is that the combination of these talents has resulted in the Commercial being a work of art. The Commercial does not gratuitously use sexual appeal merely to sell the product.



For the reasons set out above, Parfums Christian Dior submits that it has not breached sub-section 2.2 of the Code.

2.2 Sex, sexuality and nudity with sensitivity (Section 2.4)

Section 2.4 requires the advertiser to treat sex, sexuality and nudity with sensitivity to the relevant audience. We will deal with each of these elements in turn and respond as follows.

(a) Sex

There is no depiction of sex in the Commercial whatsoever. The women in the Commercial do not interact with each other and there are no men in the Commercial whatsoever.

(b) Sexuality

The Practice Note states that images which are not permitted are those which are highly sexually suggestive and inappropriate for the relevant audience. Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisements for toiletries and fashion) are generally permitted but consideration must be given to the relevant audience.

Ms Theron is undoubtedly very attractive. However, nothing she does in the Commercial is highly sexually suggestive. At most, Ms Theron moves her hand through her hair whilst moving alone through the pool with her eyes closed. This is not overtly sexually suggestive. Otherwise, all Ms Theron does in the Commercial is emerge from a pool, squeeze water out of her hair and then walk confidently towards the camera.

Parfums Christian Dior's view is that these images are not inappropriate for the likely audience of the Commercial which is outlined further below.

Our view is that any portrayal of sexuality here (which rises no higher than depicting a woman appearing to wear a bathing suit immersed in water but with no private parts of her body on display to the viewer) is not overtly or highly sexually suggestive and is appropriate to the relevant audience given the product being advertised, namely a fragrance.

(c) Nudity

The Practice Note states that full frontal nudity is not permitted but advertisements which depict women or men scantily clad is generally acceptable if relevant to the product.



The crux of the complaint made by one individual about the Commercial appears to relate predominantly to the issue of Ms Theron's alleged nudity in the Commercial.

The Commercial does not contain nudity, full frontal or otherwise. Towards the end of the Commercial, Ms Theron wears a full length haute couture dress, which has a plunging V-neck but with her breasts completely covered. Prior to that, Ms Theron is depicted in a pool. Parfums Christian Dior acknowledges that Ms Theron does not appear to be wearing any sort of bathing suit to the viewer. However, given that her body from the upper chest down is immersed in water, it is merely implied that Ms Theron may not be wearing a bathing suit. Ms Theron's breasts are not visible, whether partially or at all, during the pool shots or at any other time in the Commercial. When Ms Theron starts to emerge from the pool, the shot cuts away to show her naked legs from the knee down. Thereafter, Ms Theron is shown having exited the pool in silhouette from a significant distance. Ms Theron squeezes the water out of her hair. Given the distance and lighting of the shot, it is impossible for the viewer to ascertain whether Ms Theron is wearing any clothing and, accordingly, this shot cannot be said to involve any nudity.

The Practice Note states that discreet portrayal of nudity in an appropriate context (such as the advertisement of toiletries) is generally permitted provided it is sensitive to the relevant audience. Our view is that any portrayal of nudity here (which rises no higher than a woman's shoulders and upper chest with her breasts adequately covered and a distant silhouette of a woman's body) is appropriate to the relevant audience, as it is not highly sexually suggestive, particularly keeping in mind that the target audience of adult females are familiar, and likely to be relatively comfortable with, the female body.

(d) Sensitivity to the relevant audience

(i) Time slot

The Commercial was given a CAD rating of W and so is able to be shown generally except during P (preschool) and C (children's) programs or adjacent to P and C periods.

(ii) Relevant audience

The Commercial treats its subject with sensitivity, keeping in mind that the relevant audience is adult females and not children (who should not be exposed to the Commercial due to the broadcast restrictions mentioned above).

Many women would aspire to look like Ms Theron and to have her level of confidence. Rather than doing just enough to be sensitive to the relevant audience, the Commercial would be very appealing to the majority of females, who may feel empowered by its content.



As outlined above, our view is that the Commercial does not portray sex, sexuality or nudity. The Commercial does not depict any confronting or inappropriate images which might shock a casual viewer of the Commercial.

(iii) Artistic nature of the Commercial

This Commercial has been distributed internationally and is designed to be artistic in nature, bringing together the talents of a number of major award winning individuals, including the star of the Commercial, Ms Theron. Our view is that the combination of these talents has resulted in the Commercial being a work of art. The Commercial does not gratuitously use sexuality merely to sell the product and does not aim to promote a message of sexuality.

4 Other relevant complaints

We note that the Community Panel has considered similar complaints in relation to perfume, namely Case References 0355/15 (Calvin Klein Eternity Now) and 0536/14 (Calvin Klein Euphoria) both of which were complaints under section 2.4 of the Code. We raise these complaints not to comment on the content of those commercials but merely to use them as examples, acknowledging of course that each advertisement must be assessed on its own merits.

In both of those commercials, a man and a woman appear in close proximity and are shown kissing with the male partially naked, embracing (sometimes on a bed) and variously writhing and/or undressing each other. Our view is that sex, sexuality and nudity were depicted in these commercials very much more so than in the Commercial, despite the fact that those advertisements were rated “PG” and were considered acceptable for children (under supervision).

In Case 0355/15, the Community Panel considered the Eternity Now advertisement to be “mildly sexualised” but with an overall artistic tone and minimal nudity. In those circumstances, Parfums Christian Dior’s view is that this analysis should also certainly apply to the Commercial.

In Case 0536/14, the Community Panel found that the Euphoria advertisement was sexualised but was not inappropriate for a PG audience. Again, our view is that a similar analysis should apply to the Commercial but again noting that the Commercial is much less sexualised than the Euphoria advertisement.

Finally, the Community Panel has previously rejected a number of previous complaints made against Parfums Christian Dior commercials, including Case 50/10 also for the J’adore perfume and featuring a silhouette of Ms Theron. In that case, the Community Panel found that “the woman is seen naked in the distance and that she is mainly in



the dark with little detail of her body visible. The Board considered that the depiction of nudity in this advertisement was very subtle and discrete and was a treatment of nudity that is sensitive to the relevant audience. The Board determined that the advertisement was not in breach..." Accordingly, the complaint was dismissed.

Parfums Christian Dior has a long history of designing and producing advertising campaigns for its products that are successful and of the highest artistic standards. Our view is that the Commercial accords with contemporary advertising standards and is similar to the type of advertising campaigns used by many companies today, particularly in the perfume and cosmetics field.

For the reasons set out above, our view is that the Commercial complies with the Code.

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 a woman suggestively appeared naked.

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

The Panel considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: "Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people."

The Panel first considered whether the advertisement used sexual appeal.

The Panel noted this television advertisement for a perfume featured a woman in a bathhouse in the water appearing naked from the shoulders up, and then emerging from the water and being shown as a silhouette. The Panel considered that the imagery of the woman appearing to be naked did constitute sexual appeal.

The Panel then considered whether the advertisement used sexual appeal in a manner that was exploitative of an individual or group of people.

The Panel noted the AANA Practice Note which provides guidance on the meaning of



the terms exploitative and degrading:

Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised. Degrading – lowering in character or quality a person or group of people.

The Panel then considered whether the advertisement used sexual appeal in a manner that was exploitative of an individual or group of people.

The Panel considered that there was no particular focus on the woman's body parts in the advertisement, and that the advertisement did not suggest the woman was an object, or was for sale.

The Panel considered that the advertisement did not use sexual appeal in a manner that was exploitative of an individual or group of people.

The Panel then considered whether the advertisement used sexual appeal in a degrading manner.

The Panel considered that the advertisement depicted the woman as confident and comfortable, and considered that the advertisement did not depict the woman in a way which lowered her in character or quality.

The Panel considered that the advertisement did not use sexual appeal in a degrading manner.

On that basis, the Panel determined that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of an individual and did not breach Section 2.2 of the Code.

The Panel then 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 complainant's concern that the advertisement depicted a woman suggestively naked.

The Panel noted that this television had been granted a "W?" rating by CAD, which allowed to be aired in general programming.

The Panel considered that most members of the community would consider the level of nudity within the advertisement to be very mild, as only the woman's bare arms and legs are depicted. The Panel considered that while some viewers may take sexual



connotations from some scenes, there were no references to sex or sexualised material and the advertisement has an overall tone of sensuality.

In the Panel's view the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience and that the advertisement 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 complaint.

