



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0062-21
2. Advertiser :	Suit Supply
3. Product :	Clothing
4. Type of Advertisement/Media :	Email
5. Date of Determination	24-Mar-2021
6. DETERMINATION :	Upheld – Not modified or discontinued

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This email advertisement features multiple images, including:

- an image of a male and female kissing with their tongues visible. In the background parts of other people kissing, embracing and touching each other can be seen. Text over the image states, "The new normal. Get Ready."
- An image of a man and woman, the woman is standing with her face close to the male's face, with her head turned and her tongue out with saliva dripping down the man's chin.
- An image of a reclining couple kissing, they appear to be lying with other people in underwear.

THE COMPLAINT

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

This pushes the boundaries, we have young boys in our home and we are careful with what we expose them too. This advertising establishes a completely unrealistic view of sex for men and boys which is established by research to be incredibly unhealthy and relates strongly to pornography to appeal.



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 complainant's concern that the advertisement uses explicit images mimicking group sex.

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

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

The Panel noted the Practice Note for the Code states:

"Overtly sexual depictions where the depiction is not relevant to the product or service being advertised are likely to offend Prevailing Community Standards and be unacceptable.

"Although not exhaustive, the following may be considered to be overtly sexual:

- Poses suggestive of sexual position: parting of legs, hand placed on or near genitals in a manner which draws attention to the region;*
- People depicted in sheer lingerie or clothing where a large amount of buttocks, female breasts, pubic mound or genital regions can be seen; The use of paraphernalia such as whips and handcuffs, particularly in combination with images of people in lingerie, undressed or in poses suggestive of sexual position;*
- Suggestive undressing, such as pulling down a bra strap or underpants; or*
- Interaction between two or more people which is highly suggestive of sexualised activity."*

Does the advertisement contain sex?

The Panel considered whether the advertisement contained sex. The Panel noted the definition of sex in the Practice Note is "sexual intercourse; person or persons engaged in sexually stimulating behaviour".

Image One

The Panel noted that the image show multiple people lying with the main couple and that the main couple are kissing. The Panel noted that one of the background people



appears to be placing their hand on a woman's breast. The Panel considered that this is a depiction of sexually stimulating or suggestive behaviour and that the image did contain sex.

Image Two

The Panel noted that the images show a couple kissing in a sexualised manner and considered that the graphic representation of kissing was a depiction of sexually stimulating or suggestive behaviour and that the image did contain sex.

Image Three

The Panel noted that the image show multiple people lying with the main couple and that the main couple are kissing. The Panel considered that this is a depiction of sexually stimulating or suggestive behaviour and that the images did 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”.

Image One

For the same reasons described above, the Panel considered that the advertisement did contain sexuality.

Image Two

For the same reasons described above, the Panel considered that the advertisement did contain sexuality.

Image Three

For the same reasons described above, the Panel 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”.

Image One

The Panel noted that the main man in the advertisement is wearing a suit, however the woman is in underwear. The Panel noted that the people surrounding the main couple are also in underwear. The Panel considered that the advertisement did contain partial nudity.

Image Two

The Panel noted that the main man in the advertisement is wearing a suit, however the woman is in underwear. The Panel noted that the shape of the woman's nipple is



visible through her underwear. The Panel considered that the advertisement did contain partial nudity.

Image Three

The Panel noted that the main man in the advertisement is wearing a suit, however the woman is in underwear. The Panel noted that the people surrounding the main couple are also in underwear. The Panel considered that the advertisement did contain partial nudity.

Is 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 this advertisement was emailed to consumers. The Panel considered it likely that the mailing list would include people that had purchased from the store before or who had subscribed to the advertiser’s marketing material. The Panel considered that the audience would be adult.

The Panel considered that many adults would not expect to see images that appear to show partly naked people embracing, and noted that the first and third images contained more than two people. The Panel considered that the overall impression of the first and third images was a depiction which was suggestive of group sex, and that the second image was suggestive of sex.

The Panel considered that most members of the community would find depictions of group sex to be inappropriate and confronting when opening their emails, and would find these images confronting and not sufficiently relevant to the product.

The Panel considered that the nudity and sexualised poses in the images were overtly sexual and not relevant to the promotion of the product.

The Panel considered that, in accordance with the Practice Note, this overtly sexual image is not relevant to advertising a suit store and does offend Prevailing Community Standards and is unacceptable.

Section 2.4 Conclusion

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



Conclusion

Finding that the advertisement did breach Section 2.4 of the Code, the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advertiser has not provided a response to the Panel's determination. Ad Standards will continue to work with the advertiser and other industry bodies regarding this issue of non-compliance