



Case Report

1	Case Number	0074/16
2	Advertiser	Medibank Private Ltd
3	Product	Insurance
4	Type of Advertisement / media	TV - Pay
5	Date of Determination	09/03/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The campaign celebrates and embraces the diversity and individuality of Australians. The advertisements highlight Medibank's commitment and enthusiasm to continually evolve to serve the varied needs of Australia's ever-changing and expansive demographic.

The documentary-style television commercial, features real people and families from varied backgrounds, cultures and configurations that form families, reflecting a real and honest depiction of the diversity of Australia today.

The 60 second TVC runs through a montage of different families and individuals. The montage runs through the following scenes:

- A mixed race family eating and playing music in their backyard with the grandmother, children and grandchildren.
- 3 brothers playing a game in their living room, one of the children has downs syndrome.
- A lesbian couple kissing
- A same sex couple sharing a loving moment as they embrace each other.
- A family with four children, showing them playing with a musical instrument, preparing food and then a shot of their clothes line.
- Children sitting at a table with their foster sister.
- A lady cuddling her dog
- A single parent mother washing the dishes while one of her boys is helping and the other is climbing up a door frame.
- A grandmother pulling her grandchild from the car and then talking to her grandchildren.
- A father giving his young daughters a bath and then the mother and father preparing them for bed
- A same sex couple leaning in to cuddle their daughter

- A family of two fathers sitting in the living room with their two children, the fathers lean in to kiss each other on the lips
- An man kicking a soccer ball in his backyard
- A wheelchair rugby game in action
- A man standing in his backyard with tuna tails
- Two brothers playing video games on their couch
- A granddaughter kissing her grandmother on the cheek
- A mother breastfeeding her baby
- An older couple where the woman pats her husband on the head
- A younger couple where the woman reads to her husband in their living room
- A close of up the down syndrome child featured earlier
- A series of individual faces

THE COMPLAINT

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

Having two men kiss on an ad is absurd. We live in a society entrenched in sexual messages, and this is yet another dip down a very slippery slope. Shame is the conscious reaction to sinful behaviour, and we seem to have lost this.

Explicit adults-only material (transsexual or homosexual expression), during a show popular with kids (the cricket).

Favourable portrayal of transsexual or homosexual parenting, which is a very serious and distressing abuse of children's rights.

THE ADVERTISER'S RESPONSE

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

Your letters refer to consumer complaints (Complaints) received by the Advertising Standards Bureau (ASB) in relation to a Medibank television commercials for its 'I am better' campaign which promote health insurance (TVC). The Complaints concern three scenes in the TVC, one depicting two women kissing each other on the lips, one depicting two men kissing each other on the lips, and a mother breastfeeding her baby. You have requested Medibank to respond to the Complaints. For the reasons outlined below, Medibank does not consider the TVC to be contrary to the Code of Ethics (Code).

Medibank is currently broadcasting a 60 second version of the TVC and 3 x 30second versions. These are running across free to air TV, subscription TV, Youtube, Facebook and Cinema. The 60 second version and one of the 30 second versions contain scenes with same sex couples kissing and the mother breastfeeding. The 60 second TVC and 1 of the 30 second TVCs feature same sex couples kissing and a mother breastfeeding. To ensure all aspects of the TVC are considered by the ASB, we have responded by reference to the longer 60 second version.

The Code

Section 2.1

Medibank disagrees that the TVC portrays or depicts materials which discriminate against or vilify persons or a section of the community in any way. In fact, it does the complete opposite.

The campaign was designed to demonstrate Medibank's core beliefs, as a company that sees and delivers on the different health insurance needs of its customers. It portrays human truths and represents some parts of modern society as well as celebrates and embraces the diversity and individuality of Australians. It establishes Medibank's ability and enthusiasm to serve the varied needs of Australia's ever-changing and expansive demographic.

The documentary-style television commercial features real people and families from varied backgrounds, cultures and configurations that form families, reflecting a real and honest depiction of the diversity of Australia today. Individual and families were filmed in their own homes, doing what they do together without any scripting or propping of the environment. Our film crew turned up and shot what was found on the day, uncovering some very human, truthful and touching moments.

Our decision to include same sex couples in our advertising stems from the fact that we have been providing health insurance to the Australian population for over 39 years, and do not exclude anyone based on their sexual orientation. We received some customer feedback from same-sex couples that they didn't know if they needed different products to suit their needs and realised our communication wasn't a true reflection of our diverse Australian society, so we've refreshed this. Our belief is that anyone, regardless of age, sex, race or sexual orientation, is entitled to have a health insurance product that meets their individual needs.

Our advertisement highlights and reflects the present state of Australian society as it is today. Statistics show that one in 29 Australians identify as gay and only 6.8 per cent of families fall into the traditional nuclear family type structure. In fact, the number of same-sex couples in Australia has risen significantly in recent years, with a 32% increase in the five years since 2006. (*Source: Roy Morgan Single Source, Australians aged 18+, 12 months to September 2015. Typical Australian Family defined as Married or De-Facto, Young Parent or Mid-Life Families Household, Born in Australia, 1 or 2 Children under 18 in Household and live in Capital Cities.)*

As mentioned above, we filmed these real couples and families in their own environments, without scripting. We witnessed normal and loving moments between these couples and families and wanted to share it.

In our view, the advertisement does not show anything that would be offensive or unnatural, and note that none of the Complaints relate to the fact that heterosexual couples are also seen kissing in the advertisement.

Section 2.2

Medibank submits that no aspect of the TVC is exploitative and degrading.

Section 2.3

Medibank submits that no aspect of the TVC portrays or presents violence.

Section 2.4

Medibank disagrees that the TVC shows sex, sexuality or nudity without sensitivity to the relevant audience.

Our decision to include a mother breastfeeding in our advertisement came about from again, featuring real people in their own homes, going about their everyday lives. Nothing was scripted. We witnessed such a moving moment between a Mum and her baby and we wanted to share it.

This is an entirely natural and normal depiction of a mother feeding her baby and does not feature any full frontal nudity. It is also an accepted way for a mother to feed her baby, it is legal to breastfeed in public.

Medibank acknowledges that the overall tone of the Complaints suggest that the advertisement features sexually explicit material with the same sex couples kissing.

The scenes are fleeting and part of the whole advertisements which is intended to celebrate and embrace the diversity and individuality of Australians.

In our view, the advertisement does not show anything that would be offensive or unnatural, the kisses don't linger and are not sexually explicit. We also note that none of the Complaints relate to the fact that heterosexual couples are also seen kissing in the advertisement.

Section 2.5

Medibank submits that there is no inappropriate or explicit language in the TVC.

Section 2.6

Medibank submits that that the TVC does not depict material contrary to prevailing community standards on health and safety.

Medibank is a responsible advertiser and has numerous internal review processes, including review by Medibank's Legal and Compliance Department, to critique all advertisements to ensure they comply with current advertising laws, ethical considerations and prevailing community standards.

So far, this campaign has had an overwhelmingly positive response from customers and even non-members, with positive sentiment being higher than 80% on social media. People are delighted to see a health insurer embracing diversity and inclusiveness in their advertising.

We submit that the TVC is well within prevailing community standards and complies with the Code.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concerns that the advertisement depicts men kissing men, and women kissing women, which is graphic and inappropriate.

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

The Board 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 Board noted there are different versions of the advertisement all featuring variations of the scenes used in the sixty second version. The Board noted that the scenes include different types of families engaging in different activities.

The Board noted that one scene depicts a woman breastfeeding.

The Board noted it had previously dismissed a complaint about an advertisement depicting a mother breastfeeding in case 0237/14 where:

“The Board noted that there is a genuine community support of breastfeeding and acknowledges the importance of encouraging women to breastfeed if they are able. The Board considered that the image of the woman feeding is very brief and is a depiction that does not expose the woman’s nipple or any nudity and is a modest and realistic depiction of how women feed their babies.

The Board noted that the advertisement had been given a W rating by CAD and was aired in appropriate timeslots for the rating.

The Board determined that the advertisement did not include imagery that was of a sexual nature and did treat the issue of nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.”

In the current advertisement the Board noted the scene showing a baby being breastfed and considered that the mother’s nipple is not visible and the level of nudity is relatively mild. The Board noted that feeding a baby is not a sexualised activity and considered that most reasonable members of the community would not find this brief scene of a mother breastfeeding her baby to be inappropriate in the context of a montage of images depicting varied family life.

The Board noted the complainants’ concerns over the depictions of same-sex kissing between women and between men.

The Board acknowledged that some members of the community might be uncomfortable with images of men kissing men, or women kissing women, but considered that the depictions of kissing in the advertisement are very brief and are not sexualised or shown to lead to any further intimacy.

Consistent with previous determinations against similar complaints concerning men kissing in cases 0487/12 and 0026/15, the Board considered that in the current advertisement the brief depictions of a man kissing a man, and a woman kissing a woman, were in the context of a broad range of depictions of loving relationships and that these scenes were not gratuitous or inappropriate. The Board noted that the advertisement included scenes of a man and woman kissing, as well as parents kissing their children and adults kissing their parents. The Board noted that all the scenes are given equal attention and that they are all in the context of an advertisement showing different family situations. The Board acknowledged that some members of the community might prefer not to see depictions of same sex couples and indeed of same sex couples kissing but considered that this is not of itself a breach of the Code. The Board considered that no undue focus is directed at any person or type of person, including the scenes showing same-sex couples kissing.

The Board noted that the advertisement features a broad representation of the community, covering every social and socio-economic group, and considered that the overall the people depicted were shown engaging in loving relationships in many different ways and that the content was not sexualised or inappropriate.

The Board noted the advertisement had been rated 'W' by CAD and considered that the content did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children.

The Board determined 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 Board dismissed the complaints.