



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0107-20
2. Advertiser :	Naked Tan
3. Product :	Beauty Salon
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	25-Mar-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This television advertisement depicts a woman in a peach coloured bikini using an outdoor shower at the beach. Voiceover states "Every 45seconds a woman is having a Naked Tan. Visit Naked Tan website and use code (REF) to receive a 25% discount."

REF - Code varies depending on program the advertisement is broadcast in, i.e. MAFS, LOVEISLAND, BACHELOR.

THE COMPLAINT

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

It was highly seductive. The woman's face wasn't even shown just an emphasis on her breasts and bottom of body. The advertisement is inappropriate for the time slot, especially as it was played during family tv had time. They MAFS as a discount code.

I find the Ad very inappropriate for the time slot it is shown in. It shows a girl in a G-string under a shower at beach. This ad should be shown after 9.30.bjt doesn't need to be seen by kids, my daughter who is 9 said, omg is that her costume, the ad is very provocative.



THE ADVERTISER'S RESPONSE

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

The advertisement was created and aired specifically for viewers of the following shows;

- *Married at First Sight (MAFS)*
- *Love Island*
- *Bachelor in Paradise*

The script of the ad – Every 45seconds a woman is having a Naked Tan. Visit Naked Tan website and use code MAFS to receive a 25% discount. (previously the code was LOVEISLAND to receive 25%off, and BACHELOR.

The rating, of our Ad as per CAD is a "G" . Although the ad is still only specifically appearing evenings during the viewing of these programs;

- *Married at First Sight (MAFS)*
- *Love Island*
- *Bachelor in Paradise*

Time slot and program is currently Married at First Site running 7.30pm-9.30pm Sunday-Wednesday for 6weeks, currently being MAFS to connect with our viewer audience that is interested in watching this show and would be interested in our self-tanning products.

Our head office is located in Wollongong (a beach suburb on the south coast of NSW) and the advertisement was aired only in this region (Illawarra region) depicting our beachside lifestyle location and our self-tanning products.

The contestants on these tv shows are wearing our Naked Tan products (not all of the models/actors but majority of them). We therefore advertise during these programs on television and also engage and have a large engagement on social media from viewers wishing to also obtain the "self-tan look and results" of our products.

Naked Tan www.nakedtan.com.au is an Australian tanning brand, launched in 2005 and we provide consumers and salons tanning products to achieve an all over body glow. We are known as "the tan on the go" . Our advertisements often are about the body in swim wear or minimalistic summer clothing to show the results of the self-tan on the body and skin of the model/actor.

We pride our brand to be Vegan Friendly, no harsh chemicals, made in Australia (Southcoast of NSW) and a safe way to self-tan your body.

The ad complaint mentions breasts however there are no breasts in our advertisement. The model is wearing a bandeau bikini. The model is showing off her tan (Naked Tan) and is at the beach showering her skin. The models face is not in the



shoot (as the complaint states) as we like to relate to all women, and not a certain look, the body is in the shoot to show the colour and results of our product.

The time that the complaint seen the advertisement is during one of our specific shows that we have set placement of this ad specifically to advertise to our key audience.

The complainant mentions in her complaint that it is in family viewing time however the demographic of viewers of this tv show Married at First Sight is not family. It would not be children as there is drinking of wine, beer and cocktails, sexual intimacy, mature topics of marriage, divorce, intimacy and if the complainant is happy for her children to be viewing this program, I would think that our advertisement would not be offensive. Our ad is rated as G by CAD.

I would hope that our advertisement would be acceptable and it be taken into consideration why we have chosen these television shows specifically to advertise during to our specific audience. Our ad has been specifically produced and the creative to this demographic to appear in this selection of tv to appear, I would hope that the rating that the CAD has given us being a "G" and I would hope that it is understandable why we show the skin and body in our ad so that you can see the results of our products, and that we are located and airing on the south coast of NSW our advertising to identify with our brand and location. That it is considered as acceptable advertising for our product and brand identity.

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 is sexualised and inappropriate for a broad audience.

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

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 considered whether the images 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 considered that the woman in the advertisement was depicted using an outdoor shower whilst wearing swimwear and that this was not a depiction of sexual



intercourse, sexually stimulating or suggestive behaviour. The Panel considered that the advertisement did not contain sex.

The Panel considered whether the advertisement depicted 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 considered that the woman was depicted wearing revealing swimwear and that there were close ups of her body. The Panel considered that the woman was seen to run her hands over her body. The Panel considered that some members of the community would consider this to be a depiction of sexual matters. The Panel considered that the advertisement contained 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 in the opening shot of the advertisement the woman is wearing high-cut bikini bottoms and a large amount of her buttocks is visible. The Panel noted that the woman's full body is visible in this scene and her breasts and genitals were not visible. The Panel considered that the next shot depicted a closer image of the front of the high-cut swimwear and that the area around her pubic region was exposed, as well as the woman's legs and stomach. The Panel considered that the woman was not naked, but the design of the swimsuit may be seen by some members of the community to constitute partial nudity.

The Panel then considered whether the issues of sexuality and nudity was treated 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 the advertisement had been given a 'G' rating by ClearAds meaning that it "May be broadcast at any time except during P and C (Children's) programs or adjacent to P or C periods" (https://www.clearads.com.au/wp-content/uploads/2020/02/ClearAds-Handbook-_Edition-8.1.pdf).

The Panel noted the advertiser's response that this advertisement was aired specifically during the shows Married at First Sight, Love Island and Bachelor in Paradise and was aired only in the Illawarra region.

The Panel noted that Married at First Sight is rated 'M', Love Island is rated 'MA' and Bachelor in Paradise is rated 'M'. The Panel considered that these programs are recommended for audiences over the age of 15. The Panel considered that the relevant audience for this advertisement would likely be people aged 15 and over in the Illawarra region who were watching one of these three shows.

The Panel considered that the advertisement was played during shows which have sexual themes and which often depict women in bikinis or revealing clothing. The Panel considered that the advertisement was mildly sexual and that the level of nudity was consistent with modern beach wear.

The Panel considered that the advertisement was for a tanning service in an area near the beach, and that the depiction of a woman in a bikini was relevant to the promotion of this service. The Panel considered that the woman in the advertisement was depicted in a way which was appropriate to the setting and the product being promoted. The Panel noted that there was some focus on the woman's body, however considered that the focus on the woman's skin and tan was relevant to the service being promoted.

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

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaints.