



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0110/19
2	Advertiser	Sexyland
3	Product	Sex Industry
4	Type of Advertisement / media	Billboard
5	Date of Determination	22/05/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Religion

DESCRIPTION OF THE ADVERTISEMENT

This billboard advertisement is for an adult store and features the text "easter FUNnies" with a depiction of a number of personal massage devices which are shaped like rabbits.

THE COMPLAINT

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

Showing sexual vibrators and referring to Easter. As a mother and people who find Easter to be a religious time of year.

THE ADVERTISER'S RESPONSE

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





advertisement include the following:

These are massagers, used for various parts of the body and certainly not phallic looking.

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 is inappropriately referring to a religious time of year.

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

The Panel noted that the billboard advertisement featured the word "Easter FUNnies" and depicted a number of personal massage devices which are shaped like rabbits.

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies 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 Panel noted the Practice Note to Section 2.1 provides the following definitions:

"Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."

The Panel acknowledged that some members of the community may find the depiction of Easter in combination with an adult product to be inappropriate given the religious significance of the holiday.

The Panel noted that they had previously considered an Easter advertisement for this advertiser in case 0143/16, in which:

"The Board acknowledged that Easter means different things to the community and to some members of the community the period represents a significant tenet of the Christian faith. The Board considered that the commercialised nature of the word 'Easter' and the associated holiday period also means that there is a representation of eggs and bunny ears to sell products. The Board noted that the use of the rabbit ears in the current advertisement is relevant to the promotion of a sale that is available around the Easter period. The Board considered that an advertisement featuring



chocolate easter eggs and bunny ears does not in itself portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of religion.”

Similarly, in the current advertisement the Panel considered that the commercialised nature of the word Easter and the associated holiday period means that there is a representation of rabbits to sell products. The Panel considered the use of rabbit shaped products and the phrase “Easter FUNnies” is relevant to the promotion of a sale that is available around the Easter period. The Panel considered that the association of the rabbit shaped adult products and the Easter period does not in itself portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of religion.

The Panel determined that the advertisement did not breach Section 2.1 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 considered whether the advertisement contained sex, sexuality or nudity.

The Panel considered whether the advertisement contained 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 noted that there is a woman in the advertisement pictured lying on her stomach looking towards the camera, and considered that the woman was fully clothed, both her hands were visible and she did not appear to be engaged in sexual activity of any kind. The Panel considered that while the products advertised are associated with sexual activities, the depiction of these products on their own and not being used is not a depiction of sexual intercourse, sexual stimulation 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 considered that the image references sexual matters by being a store for sex products, and including images of some of the available sex products, and including an image of a woman dressed in sexy lingerie.



The Panel then considered whether the advertisement depicted sexuality 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 noted that the requirement to consider whether a depiction of sexuality 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 references 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 that this was a billboard advertisement and as such relevant audience would be broad and would likely include children.

The Panel considered that the advertisement contained images of adult massage devices shaped like rabbits and the words 'Easter FUNnies'. The Panel considered that the reference to Easter bunnies and the shapes and colours of the products may attract the attention of children. The Panel considered that most children viewing the advertisement would not understand the sexual nature of the devices and that there was nothing in the advertisement which would suggest to a young audience that these are sexual products. The Panel noted that adult members of the community might prefer not to see this type of product advertised, but considered that the product is legally able to be advertised. The Panel considered that the advertisement does treat sexuality with sensitivity in that it does not explicitly state that the products advertised are sex toys and there is no context to the advertisement that directly emphasises sexual matters. The Panel considered that the advertisement was promoting a sexual product in a subtle manner and that it treated sexuality with sensitivity to the relevant broad audience.

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 the Code is intended for the Panel to consider the concept of nudity, and that partial nudity is a factor when considering whether an advertisement treats nudity with sensitivity to the relevant audience.

The Panel considered that the advertisement contained an image of a woman wearing a singlet top lying on her front, and was pictured so that her lower half was not visible. The Panel considered the woman was not naked, that her top half was covered and that the advertisement did not contain nudity.



The Panel acknowledged that some members of the community would prefer for this type of store not to be advertised, but considered that in the context of a store which is legally able to advertise their products, the depiction of adult products has been treated with sensitivity to the relevant broad audience.

The Panel considered that this advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience and 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 complaint.

