



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	0111/18
2	Advertiser	Spark Networks Services GmbH
3	Product	Professional Service
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	21/03/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement follows a variety of couples through the 'firsts' of their relationships including the first date, first dinner, first smile, first touch, first kiss and first adventure.

THE COMPLAINT

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

This advertisement was done during school holidays wher by my children were watching this deregotive behaviour on TV... First kiss but in a sexual manner. This is not appropriate for. Children and I am appalled this is aired like this...wrong time.

THE ADVERTISER'S RESPONSE

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



Thank you for forwarding the complaint with the above reference number in relation to EliteSingles.

EliteSingles is owned and operated by Spark Networks Services GmbH (Spark) (formerly known as Affinitas GmbH).

Before dealing with the specific complaint, we address each of the information requests you have made as follows.

Description of the impugned advertisements

EliteSingles has been screening three versions of an advertisement in Australia as part of its 'Love Again' campaign. The complaint refers to a kiss scene, which appears in all three of those versions.

The campaign builds on the idea of 'Loving Again' and depicts some of the first moments of any relationship: A first date, a first smile, a first kiss, a first adventure.

The advertisements therefore show scenes of these type of moments, recreating scenes of first dates.

CAD details

Advertisement 1

Key Number ELITEB1815 CAD Number G5BE3EOF

Product Description Online Dating Duration (secs) 15.0

CAD Rating G

Advertisement 2

Key Number ELITEDR1815 CAD Number G5BE4EOF

Product Description Online Dating Duration (secs) 15.0

CAD Rating G

Advertisement 3

Key Number ELITEB1830 CAD Number G5BE5EOF

Product Description Online Dating Duration (secs) 30.0

CAD Rating G

The complaint

Spark is a responsible advertiser. Its advertisements are subject to a rigorous internal review process to ensure they comply with applicable law and prevailing community standards. Spark submits that the CAD's classification of the advertisements as 'G' – that is, suitable for viewing by everyone – supports its view that the advertisements



are consistent with prevailing community standards and are in full compliance with the AANA Code of Ethics (Code).

As explained above, the kiss scene is identical in each of the three advertisements that are currently being broadcast in Australia. This response applies to all three advertisements.

The complaint provides that the 'kissing portion' of the advertisements is inappropriate for children and was screened:

during school holidays wher by my children were watching this deregotive behaviour on TV... First kiss but in a sexual manner. This is not appropriate for. Children and I am appalled this is aired like this...wrong time (sic).

Section 2.4 of the Code

It is clear that the concerns of the complainant relate to Section 2.4 of the Code – 'Sex, sexuality and nudity'. That section provides:

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

Spark denies that the impugned scene depicts sex, sexuality and nudity. Spark submits that most members of the community would not consider that the scene depicts anything sexual. If Spark is wrong on that, it submits that it treats the material with sensitivity to the relevant audience.

The impugned scene depicts a kiss between two persons. The kiss is depicted in a fleeting, subtle and tasteful manner, as part of a montage of scenes celebrating love and dating. The kiss is depicted in extreme close-up and in silhouette, without any other display of physical intimacy suggestive of sex. In fact, the kiss is quite difficult to see. Spark submits that the kiss does not linger, nor is it depicted as leading to any further sexual or other intimacy.

Spark further submits that the text overlay of 'First Kiss' emphasises that the depicted kiss is one of a series of events in the life of a new relationship (along with 'first date', 'first smile', 'first adventure'...), rather than an end unto itself or as a step towards further intimacy. Spark submits that these elements surely detract from any sexual interpretation.

Sections 2.1, 2.2, 2.3, 2.5, 2.6 and 2.7 of the Code

Spark submits that the advertisements:



- *do not portray people or depict material in a discriminatory way (Section 2.1);*
- *are not exploitative or degrading (Section 2.2);*
- *do not present or portray violence (Section 2.3);*
- *do not use inappropriate language (Section 2.5);*
- *do not depict material contrary to prevailing community standards on health and safety (Section 2.6); and*
- *are clearly distinguishable as advertisements (Section 2.7).*

Final comments

While Spark regrets any offence to the complainant, Spark considers that the advertisements are entirely appropriate, consistent with the Code, and have otherwise generated a positive response from the community. This is the first and only complaint that has been received.

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 featured a kiss that was inappropriate for children to see.

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 noted this television advertisement follows a variety of couples through the 'firsts' of their relationships including the first date, first dinner, first smile, first touch, first kiss and first adventure.

The Panel noted the complainant’s concern that the advertisement showed people kissing in a way which was too sexualised for a general audience which would include children.

The Panel noted the advertisement was given a ‘G’ rating (able to be played any time except during children’s programs) by CAD and would therefore be likely to be seen by a broad audience which would include children (http://www.freetv.com.au/media/CAD/Placement_Codes.pdf)

The Panel noted the advertiser’s response that the kiss is depicted in extreme close-up and in silhouette, without any other display of physical intimacy suggestive of sex.



The Panel considered that the subject of the advertisement is a montage of 'firsts' in a relationship and that a first kiss would be a logical progression of a relationship. The Panel noted the kiss scene lingered, but is not sexually explicit and the overall effect was only mild.

The Panel considered that in the context of an advertisement for a dating website it is reasonable for an advertiser to show aspects of a relationship including kissing.

The Panel considered that the advertisement was not overly sexualised and that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and 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.

