



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

|   |                                      |                         |
|---|--------------------------------------|-------------------------|
| 1 | <b>Case Number</b>                   | <b>0119/19</b>          |
| 2 | <b>Advertiser</b>                    | <b>Best &amp; Less</b>  |
| 3 | <b>Product</b>                       | <b>Clothing</b>         |
| 4 | <b>Type of Advertisement / media</b> | <b>TV - Free to air</b> |
| 5 | <b>Date of Determination</b>         | <b>08/05/2019</b>       |
| 6 | <b>DETERMINATION</b>                 | <b>Dismissed</b>        |

## ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - sexualisation of children

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for clothing features a group of children walking into an arcade and posing around various locations within the arcade.

## THE COMPLAINT

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

*It is too adult like for children- sexualised and adult like.  
It is advertising for 7-12 year olds clothing but is making them look 18. We need to protect childhood.*

## THE ADVERTISER'S RESPONSE

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



*We refer to your letter dated 15 April 2019 in respect of an advertisement for Best&Less childrenswear.*

*Thank you for the opportunity to respond to the complaints received in respect of the Advertisement.*

*In respect of the information specifically requested, please see below:*

*Description of the Advertisement: The Advertisement depicts children of various ages playing games and drinking milkshakes at a play centre/arcade. The children are clothed in Best & Less latest childrenswear.*

*A copy of the script: There is no voice over to this script however the following text appears on screen during the advertisement, "Introducing The Coolest Kids Collection Ever" and "Lowest prices never looked so cool".*

*Copy of TVC: A digital copy of the Advertisement is enclosed with this letter. Standalone 30 second television commercial however the version shown on television is a 15 second version (TVC).*

*Period shown: Tuesday 7 March 2019 through to Wednesday 13 March 2019 and Sunday 7 April 2019 through to Sunday 20 April 2019.*

*Response addressing Section 2 of the AANA Code of Ethics*

#### *2.1 Discrimination or vilification*

*We believe the Advertisement complies with this section.*

#### *2.2 Exploitative and degrading*

*We believe the Advertisement complies with this section:*

*(a) The Advertisement does not employ sexual appeal or sexual imagery. The Advertisement is not exploitative or degrading and simply shows children walking through and playing in an arcade.*

*(b) We believe the Advertisement complied with this section: further details in comments below.*

#### *2.3 Violence*

*The Advertisement does not present or portray violence.*

#### *2.4 Sex, sexuality and nudity*

*We believe the Advertisement complies with this section:*

*(a) The Advertisement does not contain sexual imagery or nudity.*

*(b) The Advertisement is concerned with childrenswear and does not imply that minors are sexual beings or that ownership of the childrenswear enhances their sexuality:*



*further details in the comments below.*

#### *2.5 Language*

*We believe the Advertisement complies with this section. The Advertisement does not contain strong or obscene language.*

#### *2.6 Health and Safety*

*We believe the Advertisement complies with this section.*

#### *2.7 Distinguishable as marketing*

*We believe the Advertisement complies with this section.*

*Best&Less takes its advertising obligations seriously and as a retailer targeting families we are very concerned not to offend prevailing community standards. It is Best&Less' submission that the complaint should be dismissed and that no further action should be taken in respect of this matter for the reasons set out below.*

*In response to the concerns raised in the complaints, Best&Less respectfully submits as follows:*

- it is reasonable to depict the product that is the subject of the Advertisement (in this case, childrenswear);*
- the Advertisement is consistent with images and depictions of children advertising childrenswear;*
- the Advertisement depicts children of various ages playing games and drinking milkshakes in an arcade (Archie Brothers Cirque Electriq, Alexandria NSW); a place which is a typical environment for children of various ages and should not be perceived as inappropriate (as alleged in the Complaint referenced 0119/19), and this view is likely to be shared by the broader community;*
- the imagery of the children in various clothing depicting the latest style and trends at low prices are not inappropriate in the context of the product being sold;*
- the Advertisement promotes childrenswear and the overall focus of the Advertisement is on the product and the low prices on offer at Best&Less. This is reinforced by the graphics which refers to "Lowest prices never looked so cool";*
- none of the product worn by the children is provocative, for example, it is not minimal or sheer or revealing. The imagery is not sexually explicit or suggestive. Again, we submit that this view is likely to be shared by the broader community;*
- the Advertisement does not sexualise children, as suggested in the Complaint. Best&Less does not believe that the children are posing or being portrayed in a*



*manner that states or implies that children are sexual beings and that ownership of the childrenswear or enjoyment of the apparel will enhance their sexuality. As noted above, it portrays children of various ages walking and playing in an arcade and drinking milkshakes;*

*- the Advertisement is intended to engage cost conscious families, and the main message of the Advertisement is that childrenswear can be stylish and “cool” whilst maintaining a low price point. Again, this is reinforced by the imagery in the Advertisement which depicts stereotypical “cool kids” in an arcade environment;*

*- our creative agency commented on the complaint as follows: “The reason the kids have serious faces in the majority of scenes was in order to dramatize the “cool” factor of the clothing and show off some of the attitude kids often have when they are growing up, ie not always smiling / laughing, but having a straight face and acting “cool.” They were not directed to look like adults or pretend to be older than they are.”*

*- the Advertisement is appropriate for Best&Less’ target market and would not offend the general public within the context of an advertisement for childrenswear; and*

*- the Advertisement has been placed broadcast in accordance with the “G” rating received by CAD:*

*General “G” Definition: May be broadcast at any time except during P and C (Children’s) programs or adjacent to P or C periods. Product Description: Commercials which comply with the G classification criteria in Appendix 1 of the Code of Practice and provided the content is very mild in impact and does not contain any matter likely to be unsuitable for children to watch without supervision.*

*Best&Less appreciates the AS careful consideration of the complaint and trusts that it will accept Best&Less’ submission that the complaint should be dismissed.*

*If you have any concerns or queries about this approach or would like any further information please let us know.*

## **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 features sexualised images of minors.

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

The Panel noted that Section 2.2 of the Code states:



“2.2 Advertising or Marketing Communication shall not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people.”

The Panel noted that the television advertisement features a group of children walking into an arcade and posing around various locations within the arcade. The children do not smile until the end scene.

The Panel first considered whether the advertisement contained sexual appeal.

The Panel noted the advertiser’s response that the advertisement is consistent with the depiction of children modelling kidswear and are depicted in a way which makes them look cool, not sexualised.

The Panel considered that the children appear to be acting in a grown up manner, and their facial expressions, poses and the background music reflect this. The Panel considered that the depiction of the children was highly stylised to make them look tough and cool.

The Panel noted that the children were dressed in clothing appropriate to their age, were in a setting appropriate to their age and were undertaking activities, such as playing arcade games and drinking milkshakes, which were appropriate to their age.

The Panel noted one brief depiction of a young girl is seen sitting on the top of a bumper car with her legs apart. The Panel considered that the girl was wearing leggings and that her pose was natural and not sexualised. The Panel considered that the depiction of the girl did not contain sexual appeal.

The Panel considered that the children were depicted in a sober manner and were not sexualised in any way. In the Panel’s view the advertisement did not contain sexual appeal and did not breach Section 2.2 (a) 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”.

Similar to the comments above, the Panel considered that the depiction of the children were not sexualised.

The Panel considered that the children were depicted in age appropriate clothing and that there was no nudity in the advertisement.



The Panel considered that there was no sexual imagery or themes in the advertisement and the children were not depicted as sexual beings.

The Panel acknowledged that some members of the community would prefer for children not to be featured with serious facial expressions, however in this advertisement the Panel considered that the children were not depicted in a sexualised manner.

The Panel considered that the advertisement did not contain sex, sexuality or nudity and did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Children's Code or the Code of Ethics, the Panel dismissed the complaint.

