



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0119-22
2. Advertiser :	Mitre 10 Australia
3. Product :	Retail
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	8-Jun-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This television advertisement features two naked people sitting outside talking to the camera. The woman says, "Well, we're renovating the cabins at the moment... and the staff at the other hardware store were very helpful."

The man says, "They even recommended these coveralls...cos the paint gets everywhere, doesn't it?"

The woman nods in agreement and says, "everywhere".

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Nudity for every person in the add. Especially in a family viewing time.

Deliberate nudity on TV is wrong. Disgusting!!!! TV is not for porn. Please keep our TV safe for our children and Grandchildren.

THE ADVERTISER'S RESPONSE

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

This ad was deemed by CAD as a rating M. It appeared in the appropriate time slot for a Sunday night, being after 7.30pm. The network did have the discretion to omit the



ad based on its programming, but given that the spot happened at 8.45pm at night and well past 'family viewing' I suspect they did not question it.

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 features nudity and behaviour that is offensive.

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

Section 2.4: Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code states:

"Overtly sexual depictions where the depiction is not relevant to the product or service being advertised are likely to offend Prevailing Community Standards and be unacceptable. Full frontal nudity and explicit pornographic language are not permitted."

Does the advertisement contain sex?

The Panel considered whether the advertisement contained sex. The Panel noted the definition of sex in the Practice Note is "sexual intercourse; person or persons engaged in sexually stimulating behaviour".

The Panel noted that there is no depiction of sex.

Does the advertisement contain sexuality?

The Panel noted the definition of sexuality in the Practice Note is "the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters".

The Panel considered that while the people in the advertisement were naked, their behaviour and dialogue was not sexualised.

Does the advertisement contain nudity?

The Panel noted that the definition of nudity in the Practice Note is "the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity".



The Panel noted that the advertisement featured people who were naked, with their breasts and genitals pixelated. The Panel considered that the advertisement did contain partial nudity.

Are the issues of sexuality and nudity treated with sensitivity to the relevant audience?

The Panel noted that the definition of sensitivity in the Practice Note is “understanding and awareness to the needs and emotions of others”.

The Panel considered that the requirement to consider whether sexual suggestion is ‘sensitive to the relevant audience’ requires 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 Panel noted that this advertisement had been given a ClearAds rating of ‘M’ meaning the advertisement can only be shown after 7:30pm and before 6am, and between noon and 3pm on schooldays. In addition, the advertisement can’t be shown before 8:30pm or after 5:30am during a sports program or a program classified G or PG.

The Panel noted that the complainants had viewed the advertisement after 8:30 pm. The Panel considered that at this time there are likely to be some older children watching television with their families, however the primary audience would be adults and teenagers. The Panel considered that the relevant audience for the advertisement would be adults, teenagers and older children under the supervision of adults.

The Panel noted that the advertisement had themes of a nudist colony, evidenced by the central couple and all the visible tradespeople in the background being naked.

The Panel noted that although it is clear the people are naked the use of pixelation meant that their genitals and breasts are covered. The Panel considered that the advertisement was humorous rather than sexual. The Panel considered that there was a high degree of nudity suggested in the advertisement, especially when the man opens his legs. The Panel considered that the impact of the suggested nudity was lessened by the humour of the advertisement and the fact that the advertisement was not sexualised.

Overall, the Panel considered that the nudity was treated with sensitivity to the relevant audience of adults, teenagers and supervised children.

Section 2.4 Conclusion

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

Conclusion



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