



Ad Standards Community Panel  
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Ad Standards Limited  
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## Case Report

1. Case Number :	0123-20
2. Advertiser :	Yum Restaurants International
3. Product :	Food/Bev Venue
4. Type of Advertisement/Media :	TV - Pay
5. Date of Determination	8-Apr-2020
6. DETERMINATION :	Dismissed

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

AANA Code of Ethics\2.1 Discrimination or Vilification

### DESCRIPTION OF ADVERTISEMENT

This Pay TV advertisement depicts a mum and dad sitting in a classroom with a school teacher holding their child's drawing. The drawing is a stick figure drawing with the text "Mum and Dad naked wrestling". The parents look blankly at the teacher before the mother looks to the side and says 'did someone say KFC?'. Followed by images of the advertised product.

### THE COMPLAINT

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

*Inappropriate especially for minors watching rugby league*

*I do not believe it is appropriate to be showing images of sexual intercourse, albeit under the guise of being a child's drawing, during programs such as the NRL games that thousands of children should be watching. I am also listened by the fact that the woman is clearly the one being accused of the behaviour for the majority of the ad. I am a primary teacher that spends a great deal of time, as part of the English curriculum, reviewing advertisements and in particular their implied, unspoken messages. To me, this ad not only explores sexual content at an inappropriate time of*



*day, it does so in a context that genderises stereotypical roles of men and women (eg the man is clearly not being accused of the act the way the woman is.)*

## **THE ADVERTISER'S RESPONSE**

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

*I refer to your letter of 13 January 2020 setting out a complaint made by an anonymous complainant (Complainant). As the Marketing Manager responsible for the relevant advertisement in this instance, I respond to the complaint as follows:*

### *Description of Advertisement*

*The Advertisement to which the Complainant refers to is a television advertisement depicting a mum and dad sitting in a classroom with a school teacher holding their child's drawing. The drawing is a stick figure drawing with the text "Mum and Dad naked wrestling". The parents look blankly at the teacher before the mother looks to the side and says 'did someone say KFC?'. Followed by images of the advertised product for the KFC brand and the [\$19.95 Box Meal] (Advertisement). The Advertisement is targeted at adults and will be advertised until [23.3.20].*

*[The advertisement depicts a mum and dad sitting in a classroom with a school teacher holding their child's drawing. The drawing is a stick figure drawing with the text "Mum and Dad naked wrestling". The parents look blankly at the teacher before the mother looks to the side and says 'did someone say KFC?']*

### *The complaints and relevant codes*

#### *Australian Association of National Advertisers Code of Ethics (Code of Ethics)*

*With respect to section 2 of the Code of Ethics,*

*KFC considers the Advertisement reasonably invokes good-humoured connotations of sexuality, and does not portray sex or nudity in any way. KFC does not consider that the ad is more closely referring to the act of sex than advertising the product. The image drawn by the child is clearly of a man and woman hugging in a bed and the images are stick figures without any genitalia drawn. There is no direct suggestion the figures are doing any more than hugging. The Advertisement and associated posts do not contain any sexually explicit or highly suggestive images or content. Further, KFC considers that nothing in the Advertisement can reasonably be considered to be generally objectionable to the community or to offend Prevailing Community Standards. Further, KFC notes that the Advertisement is directed at 16 - 34 year olds, and not children (i.e. 14 years and younger). The same advertisement has previously been dismissed by Ad standards in 2018.*



*Further, KFC notes that the Advertisement:*

*does not discriminate or vilify any person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, disability, mental illness or political belief (section 2.1);*  
*does not employ sexual appeal in a way that is exploitative or degrading of any individual or group of people (section 2.2);*  
*does not present or portray violence in any way (section 2.3);*  
*does not depict or treat sex, sexuality and nudity in any way nor without sensitivity to the relevant audience (section 2.4);*  
*does not use language which is inappropriate in the circumstances (section 2.5);*  
*does not depict any material contrary to Prevailing Community Standards on health and safety (section 2.6); and*  
*the Advertisement is clearly distinguishable as an advert and uses KFC branding to that effect (section 2.7).*

*Therefore, for the reasons outlined above, KFC believes that the Advertisement complies with section 2 of the Code in its entirety.*

*We trust this addresses the Complainants' concerns.*

## **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 references sexual matters which are inappropriate for children to view and that the advertisement depicts a woman in an unfavourable manner.

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

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 noted that the first scene of the advertisement depicted a close up of woman's face and that the woman appeared uncomfortable. The Panel noted that a



following scene depicted both the mother and father in the classroom before the mother asks “did someone say KFC?”

The Panel considered that while the initial focus of the advertisement was on the mother, the teachers includes both parents in her gaze as she shows the picture to them. The Panel considered that there is no suggestion that the mother is being solely accused of inappropriate or unfavourable behaviour.

The Panel considered that the content of the advertisement did not show the woman to receive unfair or less favourable treatment because of her gender, and did not humiliate, intimidate or incites hatred, contempt or ridicule of the woman because of her gender.

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender and 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 noted the Practice Note for the Code states:

*“Images which are not permitted are those which are highly sexually suggestive and inappropriate for the relevant audience. Explicit sexual depictions in marcomms, particularly where the depiction is not relevant to the product or service being advertised, are generally objectionable to the community and will offend Prevailing Community Standards.”*

The Panel considered whether the advertisement 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 drawing in the advertisement was intended to depict a child’s parents having sex. The Panel considered that some members of the community may consider the advertisement to depict sex.

The Panel considered whether the advertisement treated 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 reference to 'naked wrestling' and the drawn image was a reference to sexual matters and the advertisement did depict 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 the Code is intended for the Panel to consider the concept of nudity, and that partial nudity is factor when considering whether an advertisement contains nudity.

The Panel considered that there is no nudity in the advertisement.

The Panel then considered whether the issues of sex and sexuality were 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 advertiser's response that the advertisement does not portray sex or nudity in any way and that the image drawn is of stick figures without any genitalia drawn.

The Panel noted it had previously considered this advertisement on free to air television in case 0030-18 in which:

*"The Board considered that without the caption of 'naked wrestling' it would not be clear from the picture that the figures were naked. The Board considered that adults would infer a sexual connotation from the image but that this is a humorous reference to the things that small children can inappropriately or inadvertently share at school."*

*The Board considered that the main impact of the advertisement is the parents' discomfort and that small children would not draw a suggestion of sexual activity from the image. The Board also considered that a reference to 'naked wrestling' even if there is sexual connotation it is mild given the lack of imagery accompanying the text.*



*The Board considered while the drawing may be suggestive of parental intimacy there is no direct reference to or portrayal of sexual activity. The Board considered that the sexual connotation was humorous, and that the focus of the advertisement is on the parents' discomfort, and that overall the impact of the sexual suggestion is sensitive to a broad audience which would include children."*

Consistent with the previous case, the Panel considered that although there is a mild sexual suggestion in the advertisement, this suggestion would not be clear to children and in the Panel's view 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 any other section of the Code, the Panel dismissed the complaints.