



Case Report

1	Case Number	0125/16
2	Advertiser	Newscorp Australia
3	Product	Media
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	13/04/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The advertisement promotes the Sunday Mail 'sex edition' of the body and soul supplement and features images from the supplement. A voiceover says they will reveal the sex life of Australia - to find out whether you are a zero or a superhero and if things heat up as you age.

THE COMPLAINT

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

*I don't find this appropriate to advertise this during a children's movie!!!
This was advertised during a children's movie, which my 8 and 3 year old were watching, if this is even at all appropriate to advertise at all or at any time, it certainly shouldn't be allowed during a children's movie!*

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 which notified us of a complaint having been lodged in relation to one of our television commercials for body+soul (the Advertisement).

As requested in your letter, I provide the following information in relation to the Advertisement.

On Sunday March 6, The Sunday Mail published a "Sex Edition" of the Body+Soul liftout, carrying results from an Australia wide survey looking into the sex lives of Australians. To promote this issue, a 15 second television commercial was broadcast between Thursday and Saturday in the lead up to Sunday to encourage sale of The Sunday Mail.

The Advertisement was neither directed to children nor did it promote any alcoholic beverage (or other food or drink). Therefore, the AANA Code for Advertising and Marketing Communications to Children and the AANA Food and Beverages Marketing and Communications Codes are not applicable.

Our comments in relation to the compliance of the Advertisement with Section 2 of the AANA Advertiser Code of Ethics

We do not believe that there can be any valid concern that the Advertisement was in breach of any of Sections 2.1, 2.2 or 2.3.

In relation to Section 2.4, we draw from the AANA Code of Ethics Practice Note which states that the use of the word "sex" does not, of itself, make an advertisement unacceptable. However, such advertisements must not contain images that are highly sexualised. The Advertisement is entirely consistent with this principle. The Advertisement contains no significant nudity. There is only a torso and an arm across it at the beginning and even they are not easily distinguishable and not shown for long. The images used, including the opening one, are discreet; they are neither sexually suggestive nor explicit, particularly to a young child. The images are entirely relevant to the subject matter of the Advertisement. We do not believe there is anything in the Advertisement which treats sex or sexuality with insensitivity.

In relation to Section 2.5, there is no strong or obscene language used. The language used was discreet, factual, relevant and appropriate. This analysis is consistent with the AANA Code of Ethics Practice Note regarding inappropriate language.

In relation to Section 2.6, the Advertisement did not depict material contrary to community standards in relation to health and safety, as described in the AANA Code of Ethics Practice Note. In addition, the Advertisement did not promote (and further did not even reference) sexual conduct by minors or promiscuity.

Our comments in relation to the matters raised by the specific complaint

The Advertisement was submitted to CAD for approval and rated PG.

In accordance with the CAD classification guidelines, the Advertisement was approved to run in G classified programs, at any time of day, except during P and C programs or adjacent to P or C periods.

The SpongeBob movie is rated "G". In addition, the broadcast time was between 6.00pm-8.00pm, which means it was broadcast outside of P & C time periods. It was therefore compliant that the Advertisement was broadcast during the Spongebob movie in that timeslot.

This specific spot placement was selected by Network 10 and was not specifically requested or selected by News Corp Australia (or its agencies) prior to broadcast.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concerns that the advertisement is promoting the findings of a sex survey during a children’s movie which is inappropriate.

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

The Board 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 Board noted that this television advertisement promoting the Sunday Mail’s ‘sex edition’ of the Body and Soul supplement features images from the supplement and a voiceover which says the supplement will “reveal the sex life of Australia”.

The Board noted the opening image showing the man’s naked chest and considered that the level of nudity is very mild. The Board noted that the text, “Sex lives of Australians revealed” is written underneath this image and considered that the combination of the words ‘sex lives’ and the image of the woman’s arm on the man’s chest is not overly sexualised or inappropriate in the context of the product advertised. The Board noted the cartoon image of a woman asleep in a bed dreaming of a batman-like figure and considered that this image is not sexualised. The Board noted the image showing the cover of the magazine which shows a woman’s lips under the heading “The SEX issue” and considered that the image of the woman’s lips is stylised but not sexualised and the title, “The SEX issue” is factual and it is appropriate to show the cover of the publication being advertised. The Board noted the style of the advertisement and the tone of the voiceover and considered that the text rich background and verbal tone are unlikely to be attractive to children.

The Board noted the advertisement had been rated ‘PG’ by CAD and that the complainants had viewed the advertisement during a Spongebob Squarepants movie. The Board noted there are two Spongebob Squarepants movies, one released in 2004, the other in 2015, and that both are rated ‘PG’. The Board noted that PG rated content may be aired at any time during the day except adjacent to, or during, Preschool and Children’s (P&C) programming. The Board noted that 6pm on Saturday evenings is not a P&C timeslot and considered that the advertisement had been aired appropriately in accordance with its rating.

The Board acknowledged that some members of the community may be uncomfortable with the issue of sex being identified in a movie that would have strong appeal to children. The Board considered however that in this instance the advertisement treats the issue in a factual manner which is not sexualised or inappropriate in the context of a broad audience which would include children.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant PG audience.

The Board determined that the advertisement did not breach Section 2.4 of the Code.