



Case Report

1	Case Number	0126/16
2	Advertiser	Medibank Private Ltd
3	Product	Insurance
4	Type of Advertisement / media	Internet
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 campaign celebrates and embraces the diversity and individuality of Australians. The advertisements highlight Medibank's commitment and enthusiasm to continually evolve to serve the varied needs of Australia's ever-changing and expansive demographic.

The documentary-style television commercial, features real people and families from varied backgrounds, cultures and configurations that form families, reflecting a real and honest depiction of the diversity of Australia today.

The 60 second TVC runs through a montage of different families and individuals. The montage runs through the following scenes:

- A mixed race family eating and playing music in their backyard with the grandmother, children and grandchildren.
- 3 brothers playing a game in their living room, one of the children has downs syndrome.
- A lesbian couple kissing
- A same sex couple sharing a loving moment as they embrace each other.
- A family with four children, showing them playing with a musical instrument, preparing food and then a shot of their clothes line.
- Children sitting at a table with their foster sister.
- A lady cuddling her dog
- A single parent mother washing the dishes while one of her boys is helping and the other is climbing up a door frame.
- A grandmother pulling her grandchild from the car and then talking to her grandchildren.
- A father giving his young daughters a bath and then the mother and father preparing them for bed
- A same sex couple leaning in to cuddle their daughter

- A family of two fathers sitting in the living room with their two children, the fathers lean in to kiss each other on the lips
- An man kicking a soccer ball in his backyard
- A wheelchair rugby game in action
- A man standing in his backyard with tuna tails
- Two brothers playing video games on their couch
- A granddaughter kissing her grandmother on the cheek
- A mother breastfeeding her baby
- An older couple where the woman pats her husband on the head
- A younger couple where the woman reads to her husband in their living room
- A close of up the down syndrome child featured earlier
- A series of individual faces

THE COMPLAINT

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

I saw the ad while showing my 4 yrs old cartoon videos on Youtube, but I've been informed that it also runs on free TV.

I found improper that they had a lesbian couple kissing, when they know that there might be kids watching. Their message could be made the same by showing the couple without them kissing.

THE ADVERTISER'S RESPONSE

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

Your letter refers to the consumer complaint (Complaint) received by the Advertising Standards Bureau (ASB) in relation to a Medibank Online Video advertisement for its 'I am better' campaign which promotes health insurance (Online Video). The Complaint concerns a scene in the Online Video, depicting two women kissing each other on the lips. You have requested Medibank to respond to the Complaint. For the reasons outlined below, Medibank does not consider the Online Video advertisement to be contrary to the Code of Ethics (Code). Medibank is currently broadcasting a 60 second version of the Online Video and 3 x 30second versions. These are running across free to air TV, subscription TV, Youtube, Facebook and Cinema. The 60 second version and one of the 30 second versions contain scenes with same sex couples kissing. To ensure all aspects of the Online Video are considered by the ASB, we have responded by reference to the longer 60 second version.

The Code

Section 2.1

Medibank submits that the Online Video does not portray or depict materials which discriminate against or vilify persons or a section of the community in any way.

Section 2.2

Medibank submits that no aspect of the Online Video is exploitative and degrading.

Section 2.3

Medibank submits that no aspect of the Online Video portrays or presents violence.

Section 2.4

Medibank disagrees that the Online Video shows sex, sexuality or nudity without sensitivity to the relevant audience.

Medibank acknowledges that the overall tone of the Complaint suggests that the advertisement features sexually explicit material with the same sex couple kissing.

The scene is fleeting and part of the whole advertisement which is intended to celebrate and embrace the diversity and individuality of Australians.

In our view, the advertisement does not show anything that would be offensive or unnatural, the kisses don't linger and are not sexually explicit. We also note that the Complaint doesn't relate to the fact that heterosexual couples are also seen kissing in the advertisement.

The Complaint received is in relation to the fact that the advertisement was running during a children's cartoon on Youtube. All ads that run across YouTube are manually approved before they are pushed live and the Online Video was deemed appropriate by the publisher to run. Furthermore, the advertisement has been approved to run on children's programming on both Free to Air and Subscription TV.

The Online Videos Medibank run are targeted to the audience of each device. We have reached a family on a parent's device based on the profile of that user (the parent) and unfortunately are not able to fully emit when they are sharing that device. Since receiving this complaint however, we have decided to negative match any cartoon related content to limit instances of Medibank ads on children's content.

Section 2.5

Medibank submits that there is no inappropriate or explicit language in the Online Video.

Section 2.6

Medibank submits that that the Online Video does not depict material contrary to prevailing community standards on health and safety.

Medibank is a responsible advertiser and has numerous internal review processes, including review by Medibank's Legal and Compliance Department, to critique all advertisements to ensure they comply with current advertising laws, ethical considerations and prevailing community standards.

So far, this campaign has had an overwhelmingly positive response from customers and even non-members, with positive sentiment being higher than 80% on social media. People are delighted to see a health insurer embracing diversity and inclusiveness in their advertising. We submit that the Online Video is well within prevailing community standards and complies with the Code.

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 complainant's concerns that the advertisement shows women kissing and this is not appropriate for children to view.

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 there are different versions of the advertisement all featuring variations of the scenes used in the sixty second version. The Board noted that the scenes include different types of families engaging in different activities.

The Board noted the complainant's concern over the scene showing two women kissing.

The Board noted it had previously dismissed similar complaints about the same advertisement when it was aired on television in case 0062/16 where:

“The Board acknowledged that some members of the community might be uncomfortable with images of men kissing men, or women kissing women, but considered that the depictions of kissing in the advertisement are very brief and are not sexualised or shown to lead to any further intimacy.

Consistent with previous determinations against similar complaints concerning men kissing in cases 0487/12 and 0026/15, the Board considered that in the current advertisement the brief depictions of a man kissing a man, and a woman kissing a woman, were in the context of a broad range of depictions of loving relationships and that these scenes were not gratuitous or inappropriate. The Board noted the complainants' concerns that the advertisement did not depict men and women kissing each other, only same-sex kissing, and considered that we do see a man and woman kissing, as well as parents kissing their children and adults kissing their parents. The Board noted that all the scenes are given equal attention and that they are all in the context of an advertisement showing different family situations. The Board acknowledged that some members of the community might prefer not to see depictions of same sex couples and indeed of same sex couples kissing but considered that this is not of itself a breach of the Code. The Board considered that no undue focus is directed at any person or type of person, including the scenes showing same-sex couples kissing.

The Board noted that the advertisement features a broad representation of the community, covering every social and socio-economic group, and considered that the overall the people depicted were shown engaging in loving relationships in many different ways and that the content was not sexualised or inappropriate.

The Board noted the advertisement had been rated ‘W’ by CAD and considered that the content did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children.”

In the current advertisement the Board noted that the advertisement was seen by the complainant whilst viewing cartoons on YouTube with their young child. The Board noted that YouTube has an age-restriction policy which allows certain content to be aired to adults who have signed in using their Google account. The Board noted it was possible that the advertisement was streamed to the complainant because they were signed in but considered that regardless of why the advertisement was aired, and consistent with its previous determination, in the Board's view the content of the advertisement treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children.

The Board noted the scene in the advertisement which depicts a woman breastfeeding.

The Board noted it had previously dismissed a complaint about an advertisement depicting a mother breastfeeding in case 0237/14 where:

“The Board noted that there is a genuine community support of breastfeeding and acknowledges the importance of encouraging women to breastfeed if they are able. The Board considered that the image of the woman feeding is very brief and is a depiction that does not expose the woman’s nipple or any nudity and is a modest and realistic depiction of how women feed their babies.

The Board noted that the advertisement had been given a W rating by CAD and was aired in appropriate timeslots for the rating.

The Board determined that the advertisement did not include imagery that was of a sexual nature and did treat the issue of nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.”

In the current advertisement the Board noted the scene showing a baby being breastfed and considered that the mother’s nipple is not visible and the level of nudity is relatively mild. The Board noted that feeding a baby is not a sexualised activity and considered that most reasonable members of the community would not find this brief scene of a mother breastfeeding her baby to be inappropriate in the context of a montage of images depicting varied family life.

Overall the Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant online audience and determined that the advertisement did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.