



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0137/18
2	Advertiser	Sportsbet
3	Product	Gaming
4	Type of Advertisement / media	TV - Pay
5	Date of Determination	11/04/2018
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

This Pay TV advertisement depicts a naked man from the waist up, with his leg up on the bathroom counter using a razor to groom or 'manscape'.

THE COMPLAINT

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

It shows a naked man with what looks like an electric shaver shaving his pubic area. Nothing to do with football. My objection is that it is sexual in nature and has nothing to do with the advertisement. Also, young kids watch Fox Sports.

The ad starts with a naked man where you can see his torso & leg. He is holding a shaver & grooming his genitals (manscaping) and nicks himself when he hears the voice over advertising the betting offer. This is on at times when children can see &



honestly its in poor taste & disgusting. No one needs to see this.

The advertisement shows a naked man sitting on the vanity of his bathroom and shaving his testicles or pubic area when something is stuck in the electric shaver. Very inappropriate and disgusting to have to watch.

It is totally inappropriate and does not even advertise the product. It's on daytime tv. The man appears to be shaving his pubic hairs and then gets flustered about his bet.

THE ADVERTISER'S RESPONSE

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

The Complaints

The essence of the Complaints assert that:

- *'A man is seen from the waist up, naked with a razor buzzing going down, out of view of the camera. He is then seen 'cutting' himself;*
- *'Gambling ads on the whole appear to be sexist and disgusting but this takes offence to a whole new level'; and*
- *'It's gratuitous sex and unnecessary'.*

The ASB has identified sections 2.1, 2.3 and 2.4 of the AANA Code of Ethics (the Code) as the sections which may have been breached based on the Complaints. The Code states:

2.1: Advertising or Marketing Communications shall not portray people 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.

2.3: Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

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

Sportsbet's response to the Complaints

Sportsbet rejects that the Advertisement in any way breaches sections 2.1, 2.3 or 2.4 or any other section of the Code for the reasons outlined below.



2.1 – Discrimination or vilification – gender

The Advertisement in no way depicts material in a way which discriminates against or vilifies a person on account of gender.

2.3 – Violence

The Advertisement does not present or portray any level of violence (defined by the Oxford dictionary as “behaviour involving physical force intended to hurt, damage, or kill someone or something”). Specifically, the Advertisement does not show any ‘cutting’ as the Complaints assert.

Instead, the Advertisement shows in a comical and light-hearted manner a man reacting as if he has experienced a momentary discomfort as a result of a slip of the electric shaver he is using to ‘manscape’ which was brought about by a sudden and unexpected interruption by the voiceover.

Moreover, at the conclusion of the Advertisement the man is not shown to be in pain.

2.4 – Sex, sexuality and nudity

The Advertisement does not in any way:

- show or reference sex;*
- show or reference sexuality; or*
- show any nudity beyond a male from the waist up and his leg.*

Specifically, the Advertisement cannot be reasonably interpreted as showing or referencing ‘masturbation’ or any ‘gratuitous sex’, as one of the Complaints assert.

It follows that the Advertisement does not, and cannot, treat those topics with any insensitivity to the relevant audience as is required in order to breach the Code.

Instead, the Advertisement simply shows a man who is in the process of the common activity termed ‘manscaping’, albeit the actual ‘manscaping’ is not shown.

The premise of the Advertisement is to depict in a light-hearted manner a typical situation in which someone is interrupted when they would have no reasonable expectation of the interruption, such as in the privacy of their own bathroom, in order to promote a Sportsbet offer. Sportsbet regrets if the jovial nature of the Advertisement was either misconstrued or may have offended the complainants, but we firmly reiterate our view that the Advertisement does not breach the Code.

Conclusion



Sportsbet believes that the Complaints lack foundation and should be dismissed.

THE DETERMINATION

The Ad Standards Community Panel (“Panel”) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the “Code”).

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

The Panel noted the advertisement depicts a naked man from the waist up, with his leg up on the bathroom counter using an electric razor out of shot, appearing to use it to groom pubic hair or 'manscape'. A voice-over says ‘Hey Romeo’ and the man is startled and appears to cut himself with the razor, looking as though he is in pain. The voice-over then gives details of a ‘head-to-head’ feature on the wagering app.

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 noted it had considered the same advertisement on a different medium (Free to Air TV) in case 0116/18.

The Panel noted the complainant’s concerns that the advertisement was in extremely poor taste and that a man who appears to be fully naked and appears to be shaving his lower body is inappropriate for daytime viewing, when children may be watching.

The Panel noted that the issue of bad taste is one that does not fall within the scope of the Code and it could only consider issues that raise concerns under the Code.

The Panel considered that the nudity of the male in the advertisement was only suggested and that his genitals were not visible in the advertisement.

The Panel considered the Practice Note for the Code which states:

“Advertisements which depict women or men scantily clad, are generally acceptable, if relevant to the product.”

The Panel considered that although the man’s genitals are not visible there is still a strong suggestion of nudity in line with the depiction of personal grooming.

The Panel noted that it had previously considered the issue of the suggestion of people trimming pubic hair in cases 0381/15 and 0416/15.



In case 0381/15 “The Board noted the complainants’ concerns over the depiction of a man trimming his pubic hair. The Board noted that we do not actually see the man’s genital region. Following considerable discussion the Board considered that in the context of an advertisement for a pubic hair trimming tool it is not inappropriate for the advertisement to make reference to the pubic region and in the Board’s view the level of sexual suggestion is consistent with PG-style comedy and is not inappropriate for the relevant audience.”

And in case 0416/15 “The Board noted this television advertisement features three women in bikinis trimming small bushes. The Board noted that the height of the bushes means that they are positioned in front of the women’s pubic areas. the Board noted that it had recently dismissed complaints about a similar advertisement for a man’s personal hair trimmer (0381/15) and considered that the content of the current advertisement was less sexualised than this previous case as there is no suggestion of sexual activity with the focus being on how easy to use the product is. Overall the majority of the Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.”

The Panel noted that in cases 0381/15 and 0416/15 the advertised product was razors and the nudity and sexual suggestion in the advertisement was relevant to the product. In the current advertisement the Panel noted the advertised service was waxing and considered that the strong suggestion of nudity is not relevant to the product being advertised.

The Panel noted the advertiser’s response that the man is depicted ‘manscaping’. The Panel considered that while ‘manscaping’ may be a concept understood by many adults, references to or suggestions of the trimming or removal of pubic hair is considered sexual by many members of the community.

The Panel considered that young children would not understand the context of the advertisement but considered that a depiction suggesting removal or trimming of pubic hair would be considered by most members of the community to be inappropriate to be viewed by a broad audience that would include children.

The Panel considered that the suggestion of nudity and the depictions of the man in the advertisement amount to a level of sexuality which was inappropriate for a broad audience which would include children.

The Panel noted that a reasonable person opts-in to Pay TV on the basis of programming, not advertisements. The Panel noted that many of the complaints identified sports related programming being broadcast at the time the advertisement aired. The Panel considered that such sports programming would have a broad audience that would include children.



Following significant deliberation the Panel determined that the advertisement did not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience of Pay TV sports channels and determined that it did breach Section 2.4 of the Code.

Finding that the advertisement did breach Section 2.4 of the AANA Code of Ethics, the Panel upheld the complaints

THE ADVERTISER'S RESPONSE TO DETERMINATION

We have received the confirmed upheld result for our Manscaping ads on Pay TV – confirming we have already taken steps to have this removed and this creative is no longer on-air.