



**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	<b>Case Number</b>	<b>0139/19</b>
2	<b>Advertiser</b>	<b>Sanofi</b>
3	<b>Product</b>	<b>Community Awareness</b>
4	<b>Type of Advertisement / media</b>	<b>Poster</b>
5	<b>Date of Determination</b>	<b>22/05/2019</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## 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 poster advertisement features a scene in an eating area showing a man sneezing and the impact blowing away all the other diners and causing chaos.

## THE COMPLAINT

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

*Offensive sexually.*

*The poster shows a cartoon representation of people in various stages of undress, particularly a woman with her shirt undone, no bra and hamburgers being thrown at her naked breasts as well as people lying around half naked with underwear and stockings displayed in a gratuitous and sexist way.*

## THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this





advertisement include the following:

*Most people know that whooping cough is dangerous for babies and young children. But not many adults realise that they can catch it too. Fewer still realise that they need to be re-vaccinated against whooping cough.*

*This intricately illustrated campaign aimed to raise awareness of the devastating impact that whooping cough can have on adults with the goal of increasing vaccination rates.*

*The campaign was tested in July 2017 among 12 doctors (2 focus groups). The doctors were selected as a general representation of varying race, sex and areas of work to evaluate their reaction and preference to four campaigns.*

*The facilitator objective was to gain an understanding the GPs reactions to the campaign through message, engagement, impact and reaction. There were no negative comments on the image of the campaign relating to sexuality, nudity or inappropriateness.*

*One doctor who participated in the study saw the final campaign during a sales call and was very pleased with the final product, commenting on the eye catching and engaging illustration.*

*The Poster has been in circulation since November 2017, and this is the first complaint (s) within a day of each other.*

*With respect to the complaint, whilst we don't agree, we will be removing the posters from waiting rooms that we have supplied the poster.*

*In response to the complaint made by "Mitchell" on 30 April 2019:*

*Firstly, we would like to address the fact that this complaint cites the place that the ad was seen as "Social media". Sanofi have never shared or approved for any third-parties to share this ad on any social media platforms. The ad was only distributed for use as a poster in GP waiting rooms.*

*The ad description cites "offensive sexually" as the cause for the complaint. In response to this, Sanofi would like to make the following points:*

- The ad is a highly stylised illustration and therefore does not depict real people*
- The ad does not make reference to any of the individual characters sexuality*
- None of the characters are depicted as naked, i.e., showing genitalia and/or women's nipples*
- Nowhere in the ad is there any contact between the illustrated characters that could be reasonably construed as sexual in nature*

*In response to the complaint made by "Theobald" on 29 April 2019:*

*In response to the description of the ad as "irrelevant and entirely inappropriate", Sanofi would like to make the following points:*

- The ad is a stylised illustration that shows how pertussis infection can spread between adults over long distances via coughing. The purpose of the campaign was to*



*encourage adults to get a booster vaccination against whooping cough, depicting the highly infectious and transmissible nature of the disease is very relevant and appropriate.*

*- As the headline suggests, the target audience for this ad was adults. No children are depicted in the illustration. The ad appeared as a poster in GP waiting rooms and encouraged Adults patient to ‘Talk to your healthcare professional about prevention’, which is very appropriate in this setting.*

*In response to the allegation that the ad depicts “people lying around half naked with underwear and stockings displayed in a gratuitous and sexist way”, Sanofi would like to make the following points:*

*- Of the 100+ illustrated characters that feature in the scene, only three could perhaps be consider in any stage of “undress” and none of which could be considered “naked”, i.e., showing genitalia or women’s nipples.*

*- The three illustrated characters that could perhaps be considered in “various stages of undress” are in that stage of undress because they have been blown away by the force of the infected character’s whooping cough. Therefore, we would argue strongly that this is not “gratuitous” – it makes sense in the context of the scenario and is used to emphasise the severity of the disease and its ability to spread between adults over long-distances via coughing.*

*- Of these three illustrated characters, two would most likely be identified as female and one as male, therefore we would argue that the ad isn’t “sexist”.*

*In response to the allegation that the ad shows “hamburgers being thrown at her naked breasts”, Sanofi would like to make the following point:*

*- The hamburgers are not being “thrown” at the illustrated character in question, they are being propelled by the force of the infected character’s whooping cough. Again, this is not “gratuitous” – it makes sense in the context of the scenario and is used to emphasise the severity of the disease and its ability to spread between adults over long-distances via coughing.*

*Regarding Section 2 of the AANA Code of Ethics*

*2.1 Advertising or Marketing Communication 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.*

*- This ad is a highly stylised illustration that depicts a representative cross-section of the adult population of Australia. The ad does not vilify any person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief. In fact, it shows that ALL adults are potentially at risk of being infected with whooping cough, regardless of these factors.*

*2.2 Advertising or Marketing Communication shall not employ sexual appeal: (a)*



*where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people.*

*- The illustration was designed to be engaging and entertaining in order to capture our adult audience's attention and deliver a very important message about whooping cough. It does not "employ sex appeal" and no minors are depicted in the illustration.*

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

*- None of the characters in the illustration are committing acts of violence. Some of the illustrated characters are being blown across the scene by the force of the infected character's cough but this makes sense in the context of the scenario and is used to emphasise the severity of the disease and its ability to spread between adults over long-distances via coughing. The purpose of the campaign was to encourage adults to get a booster vaccination against whooping cough, so depicting the highly infectious and transmissible nature of the disease is very relevant and appropriate.*

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

*- The ad is a highly stylised illustration and therefore does not depict real people.*

*- The ad does not make reference to any of the individual characters sexuality.*

*- None of the characters are depicted as naked, i.e., showing genitalia and/or women's nipples.*

*- Nowhere in the ad is there any contact between the illustrated characters that could be reasonably construed as sexual in nature*

*- As the headline suggests, the target audience for this ad was adults. No children are depicted in the illustration.*

*- The illustration was designed to be engaging and entertaining to capture our adult audience's attention and deliver a very important message about whooping cough vaccination.*

*2.5 Advertising or Marketing Communication shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.*

*- The language used in the ad is appropriate. No strong or obscene language is used.*

*2.6 Advertising or Marketing Communication shall not depict material contrary to Prevailing Community Standards on health and safety.*

*- The illustration shows an exaggerated and fantastical scenario in which a character infected with pertussis coughs with such force as to blow the other illustrated characters over. This is intended to emphasise the severity of the disease and its ability to spread between adults over long-distances via coughing. The purpose of the campaign was to encourage adults to get a booster vaccination against whooping cough, so depicting the highly infectious and transmissible nature of the disease in an everyday situation is very relevant and appropriate. The ad does not depict any*



*intentional violations of Australian law.*

*2.7 Advertising or Marketing Communication shall be clearly distinguishable as such to the relevant audience.*

*- There is a clear call to action on the ad to 'Talk to your healthcare professional about prevention' and a smaller call to action 'visit vaccinehub.com.au', which unambiguously identifies its purpose in promoting whooping cough prevention.*

## **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' concern that the advertisement includes content that is sexually offensive, gratuitous and in particular uses sexualised images of women.

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

The Panel noted that the poster advertisement features a large cartoon scene set in an outdoor food court. A person on stairs at the front of the food court is coughing and all the people, food and furniture in the food court is being blown away from the stairs. The image includes over 100 individual people in various positions and situations caused by the person coughing on the stairs. A sign in the food court features the words "Adults can catch Whooping Cough too" and wording at the bottom left of the poster reads "More than half of whooping cough cases in Australia are in adults. The cough lasts 3 months on average. Talk to your healthcare professional about prevention".

The Panel considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: "Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people."

The Panel noted the complainants' concern that the advertisement is sexually objectifying of the women in the advertisement, particularly the woman whose shirt has come undone and the woman whose underwear is showing.

The Panel noted the advertiser's response that the advertisement does not employ sex appeal.

The Panel first considered whether the advertisement used sexual appeal.

The Panel noted the specific depiction of a woman whose shirt had been blown off and whose breasts were covered by hamburgers. The Panel considered that the



woman was not the focus of the advertisement and that someone would have to be looking closely at the image to notice the woman. The Panel considered that the depiction of the woman's shirt being blown off may have been gratuitous but it was not sexualised.

The Panel noted the specific image of the woman who had been blown over the table and whose skirt had blown up to reveal her underwear. The Panel considered that this was not a clear depiction and the woman may have been depicted as wearing shorts under her skirt. The Panel considered that the woman was not the focus of the advertisement and that the depiction of the woman was consistent with the chaotic scene and was not a depiction which contained sexual appeal.

The Panel considered that the advertisement was large and featured images of over 100 people and the overall impression of the advertisement was one of chaos and the advertisement did not contain sexual appeal.

On that basis, the Panel determined that the advertisement did not employ sexual appeal and did not breach Section 2.2 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 considered whether the advertisement contained 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 noted that there are over 100 people visible in the advertisement and that none of them were depicted engaging in sexual intercourse or sexually stimulating or suggestive behaviour. The Panel considered that two of the people appeared to have been blown into an embrace with their faces touching, however considered that the depiction is unclear whether they are kissing or have just been blown over onto each other. In any case the Panel considered that the cartoon depiction of two people fully clothed kissing would not be considered suggestive behaviour. The Panel considered that the advertisement did not contain sex.

The Panel considered whether the advertisement treated the issue of sexuality 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 noted 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 suggestions 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 that this poster advertisement appeared in medical waiting rooms. The Panel considered that the relevant audience would therefore be medical staff and patients and that this last group would include children.

The Panel considered that the advertisement contained a comical and dramatized illustration of people being blown backwards by someone's cough. The Panel considered that the over-the-top illustration was to indicate how serious Whooping Cough can be. The Panel considered that the images in the advertisement was similar to the highly-detailed scenes found in Where's Wally books and Mad Magazines and that the images would be attractive to both adults and children alike.

The Panel noted that there was some elements of the illustration which may be considered to have a sexualised element, including the image of a woman with her shirt blown open and hamburgers covering her breasts, the depiction of a woman in a skirt bent over the edge of a table with her underwear showing and the depiction of an elderly woman being blown into an embrace with a younger man.

The Panel considered that these three small sections of the larger illustration were not immediately apparent and that someone would need to look closely to see them. The Panel considered that while these depictions may be gratuitous, they were not overly sexual. The Panel considered that most members of the community would not find the advertisement to contain sexualised themes or content that would be confronting to people waiting in a medical centre.

The Panel considered whether the advertisement contained nudity.

The Panel considered that the advertisement contained an image of a woman with her shirt blown open and her breasts covered with burgers and another woman wearing a skirt and depicted in a position where her underwear may be visible. The Panel considered that the women's breasts and genitals were covered, and that while there is a suggestion of nudity there is no overt nudity. The Panel considered that the depiction of the two women was only a small part of a much larger image and that someone would have to stand close to the image to see these details. The Panel considered that the poster would likely be at a height on a wall where young children would be unable to see this level of detail. The Panel considered that the level of nudity in the advertisement would not be considered confronting by most members



of the community and considered that the suggestion of nudity in the advertisement had been treated with sensitivity to the relevant broad audience.

The Panel considered that this advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad 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 complaint.



