



## Case Report

1	Case Number	0143/15
2	Advertiser	Australian Super
3	Product	Finance/Investment
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	29/04/2015
6	DETERMINATION	Dismissed

### ISSUES RAISED

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

### DESCRIPTION OF THE ADVERTISEMENT

The TVC is a 30 second TVC designed to be aired on free to air TV. The TVC opens on a chest to headshot of an older man in the shower in the morning. After a few moments, he calls out to his wife. His wife appears at the bathroom door in her dressing gown eating toast. He states: "I've been thinking. We're both retiring soon, so we're going to need to start doing things differently. Economising. Conserving what we have. Reducing our spending." His wife looks at him blankly, then takes a bite of her toast. The husband then grabs her and pulls her straight into the shower with him and says: "Starting with the water bill. It's fiscally smart. Say it! Say fiscal!" She screams happily as he bear hugs her under the stream of water. We then hear the following voice over: "Make the most of what you've got. No matter how small, turn your super into a retirement income and top up any Age Pension." We then see the Australian Super logo and web address: [australiansuper.com/income](http://australiansuper.com/income).

### THE COMPLAINT

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

*It is gross, no one wants to see people their parents or grandparents age 'fooling around' in a sexual way, regardless of it being about conserving finances and cutting back.*

*I'm no prude, but this ad is filthy and highly inappropriate for television. It makes ones stomach chum, not to mention the children ask what is happening.*

## **THE ADVERTISER'S RESPONSE**

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

*Australian Super Pty Ltd is the trustee for "Australian Super", which is a superannuation fund regulated by APRA (Australian Prudential Regulation Authority). We manage the superannuation funds (including pension accounts) of our customers, whom we refer to as "members". For the purposes of this letter, I will refer to our customers as our "members". As at 31 December 2015, we managed \$84 billion in members' assets (which we refer to as funds under management). As at 31 December 2014, we had approximately 2 million members.*

*The TVC was developed as a piece of light hearted comedy to convey an important message about not needing a large superannuation balance to benefit from a retirement income product. The TVC is targeted at pre-retirees and aims to educate them about taking their super as a retirement income and using it to top up any Government Age pension entitlements and to consider a retirement income product with AustralianSuper. It encourages viewers to make the most of what they have (in terms of income) and directs them to an online tool that demonstrates what their income could be in retirement based on their superannuation balance plus any eligible government aged pension. That tool can be found at [www.australiansuper.com/income](http://www.australiansuper.com/income).*

*The TVC uses humour to cut through all the financial jargon, with a play on being fiscally smart.*

*The TVC was signed off by our Compliance department to ensure compliance with all relevant laws and regulations, including those imposed by ASIC, APRA and the ATO.*

*Our media buying agency has confirmed that the networks on which the TVC was aired had the "W rating" logged in their system, and the TVC was aired within the appropriate time frames and within the programs according to its classification.*

*The TVC aired for the first time on Sunday 8th March 2015. The complaint was sent by email to our contract centre at 7.20pm on 9th March 2015. The TVC was aired during programs which are permitted to air TVCs rated with a W rating.*

*The reason for the complaint is quoted as follows:*

*"It is gross, no one wants to see people their parents or grandparents age "fooling around" in a sexual way, regardless of it being about conserving finances and cutting back. I'm no prude, but this ad is filthy and highly inappropriate for television. It makes ones stomach chum, not to mention the children ask what is happening".*

*Your letter states that the complaint raises issues under Section 2 of the AANA Advertiser*

*Code of Ethics (the “Code”), specifically, section 2.4.*

*We address the sections of the Code as follows.*

*Section 2.1 of the Code - 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:*

*This section is not relevant. The TVC does 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.*

*Section 2.2 of the Code - Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people:*

*This section is not relevant. The TVC did not employ sexual appeal.*

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

*This section is not relevant. The TVC did not present or portray violence.*

*Section 2.4 of the Code - Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience:*

*The TVC does not depict:*

- any sexual images or any images which are sexually suggestive and inappropriate for the relevant audience; or*
  
- any nudity or pornographic language.*

*The TVC does depict the silhouette of the man showering but the depiction is only for a brief moment and is not sexually suggestive in any way whatsoever. It is depicted simply for the purposes of showing that the man is showering – an everyday activity and one during which couples will often talk with one another whilst undertaking. Only the head shot and chest of the man is depicted whilst he talks to his wife.*

*The older couple are not “fooling around” in a sexual suggestive manner as the complainant states. The wife is simply laughing and giggling while her husband gives her a bear hug whilst she is fully clothed in the shower. The depiction is extremely innocent and comical and does not have any sexual connotations whatsoever.*

*As described above, the TVC is aimed at pre-retirees (hence the depiction of the older couple) and uses humour to cut through all the financial jargon associated with superannuation and retirement products, with a play on being fiscally smart.*

*An ordinary viewer would not find the TVC sexually suggestive, inappropriate or offensive in any way.*

*As described above, the TVC was aired within the appropriate time frames and within the programs according to its W rating classification. In any event, the TVC was not aired in cartoon programs or any other programs promoted to children or likely to attract a substantial child audience.*

*Section 2.5 of the Code - Advertising or Marketing Communications 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:*

*This section is not relevant. The TVC did not contain any inappropriate language.*

*Section 2.6 of the Code - Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety:*

*This section is not relevant. The TVC did not depict any material contrary to the Prevailing Community Standards on health and safety.*

*In summary, I respectfully submit that the Code has not been contravened in any way whatsoever, and accordingly, the complaint must be dismissed.*

## **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 concern that the advertisement is inappropriate and contains sexual references.

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

The Board noted the advertisement features a man in a shower who calls his wife into the bathroom to discuss some money saving ideas. He makes suggestions about ways to save money and then pulls her into the shower with him as he suggests “saving water” as a good money saver. The voiceover describes the benefits of the super scheme being offered.

The Board noted the complainants concern that the couple are “fooling around” in a sexual way.

The Board noted that the man is first seen showering in silhouette through a shower screen and that, although the man would appear to be naked behind the shower screen, there is no inappropriate nudity. When the man is shown talking to his wife, the shower is still running and only his head and bare chest are visible. The Board considered that the couple are depicted as being in a long-term relationship.

The Board noted that the advertisement is intended to be a comical and light-hearted way to get information to the viewer about the topic of finance and superannuation.

The Board noted that man pulls his wife into the shower in a playful way and she giggles as he tries to get her under the flowing water while she is dressed. The Board noted that the depiction of the couple in the shower is a playful one and does not have undertones of aggressive or unwelcome sexual conduct.

The Board considered that there is no nudity and that there is no suggestion of sexual intimacy or inappropriate behaviour. The Board noted that advertisement had been given a “W” rating by CAD and that the advertisement was aired in the appropriate timeslots for the rating.

The Board considered that 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 Board dismissed the complaint.