



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0158-22</b>
<b>2. Advertiser :</b>	<b>Wild Secrets</b>
<b>3. Product :</b>	<b>Sex Industry</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - On Demand</b>
<b>5. Date of Determination</b>	<b>27-Jul-2022</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This TV-on-demand advertisement features a number of different scenes which are linked by a voice over and an animated butterfly. The scenes include:

- The voice over saying, "Want to know a little secret? You can always be 10 minutes late" and an image of a woman in bed reaching for a vibrator on the night stand.
- The voice over saying, "and adding a little spice isn't just for the kitchen" and vision of a man cutting vegetables in a kitchen being interrupted by a woman in lingerie.
- The voice over saying, "Also, no one needs to know why you cancelled" and vision of two women getting ready in a bathroom who then pull out a vibrator and sing into it like a microphone.
- The voice over saying, "The best dishes aren't always on the menu" and there is vision of two men sitting at a table in a restaurant, one of the man presses a button on a remote and the other man reacts with surprise".
- The voice over saying, "and don't forget you never have to retire" with vision of three older people excitedly opening a box.

### THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*Pornographic content that cannot be skipped*



*It was blatant advertising for sex toys with multiple sex toys shown in full view (no subtlety, just blatant) including showing/encouraging people to use the sex toys in public places (showing it being brought out in a public bathroom with 2 other people there, a person taking it out of her bag and turning it on in a restaurant and shocking her date who clearly did not expect it, and 3 old people who were having a threesome). Completely inappropriate for the channel and time of day, and jarring to see because it's not something you would expect to be exposed to. Completely inappropriate and unacceptable for TV.*

### **THE ADVERTISER'S RESPONSE**

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

*Regarding the complaints, we feel they are misleading and factually incorrect. We would like to respond to each in turn and then more broadly explain our process and adherence to Section 2 of the AANA Code of Ethics.*

*Response to complaints received to date:*

*RECEIVED ON: 13/07/2022*

*MADE BY: Chaplin 30-39 Female South Australia*

*PLACE: Seven plus on demand tv app MEDIA: TV - On Demand*

*WHEN: 11 pm 13/07/2022*

*ADVERTISER: Wild Secrets*

*AD DESCRIPTION: Pornographic*

*REASON FOR CONCERN: Pornographic content that cannot be skipped.*

*Response: Without foundation – no actions or depictions meet any reasonable definition of “pornography”.*

*RECEIVED ON: 15/07/2022*

*MADE BY: \*Complainant Confidential\**

*PLACE: Channel 7*

*MEDIA: TV - On Demand*

*WHEN: Friday 15/07 at 8.15pm*

*ADVERTISER: Wild Secrets*

*AD DESCRIPTION: Blatant advertising of sex toys that showed the actual sex toys in full view*

*Response: Dispute timeframe – booking window through BVOD set to after 9pm for all networks & targeting 18+ audience only.*

*REASON FOR CONCERN:*

*1) It was blatant advertising for sex toys with multiple sex toys shown in full view (no subtlety, just blatant)*

*Response: Sex toys and massagers do not need to be hidden from public view – and can be shown on billboards, in magazines and in shop windows. No toys*



*represented any likeness to a body part. No toys were used in a sexual context, purely innuendo.*

*2) including showing/encouraging people to use the sex toys in public places (showing it being brought out in a public bathroom*

*Response: No public bathroom.*

*3) with 2 other people there,*

*Response: No other people in bathroom.*

*4) a person taking it out of her bag*

*Response: No person is seen taking toy from a bag.*

*5) and turning it on in a restaurant*

*Response: No toy shown being turned on.*

*6) and shocking her date*

*Response: No female in the scene.*

*7) who clearly did not expect it,*

*Response: The man saw what was happening and was a consenting adult.*

*8) and 3 old people who were having a threesome).*

*Response: 3 fully clothed older adults sitting on a couch happily open a box. The contents of the box are not shown.*

*9) Completely inappropriate for the channel and time of day, and jarring to see because it's not something you would expect to be exposed to. Completely inappropriate and unacceptable for TV.*

*Response: The claimed time is incorrect (as previously stated) and we have received hundreds of positive reactions and no complaints other than these two listed.*

*Elaboration on Consumer Complaints – Section 2 AANA Code of Ethics*

*2.1 Advertising 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 orientation, religion, disability, mental illness or political belief.*

*Response: This is an advert about inclusivity and diversity. We have gone out of our way to portray the reality of our customers, based on 30 years of experience and data. Please see Appendix 1.0 for comments from a member of the cast.*

*2.2 Advertising 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.*

*Response: No minors were in our ad. No focus on any body parts. The ad is not exploitative or degrading of any individual or group of people in fact the opposite, it is a body positive ad which seeks to show everyone involved in a respectful manner.*



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

*Response: There is no violence in the ad.*

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

*Response: The ad creation followed a process to avoid any issues of this kind. The ad was checked and signed off by ClearAds and is targeting logged in viewers above the age of 18 only. The ad is relevant to the product.*

*2.5 Advertising 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.*

*Response: Please see Appendix 1.1 Script. No strong or obscene language.*

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

*Response: Ad does not contravene any community standards on health and safety.*

*2.7 Advertising shall be clearly distinguishable as such.*

*Response: Ad is clearly an advertisement.*

*Process followed in the creation of the ad*

*We were very keen to create the best ad we could and make sure it was not going to contravene any advertising standards of any kind. We care deeply about our customers and our brand and work diligently to protect both.*

*1) All cast members are true representatives of their different minority communities.*

*2) For this reason before embarking on the shoot we signed our storyboards off with ClearAds.*

*3) We signed our script off with ClearAds.*

*4) Once the ad was complete and before going to air we signed our completed ad off with ClearAds. Please see Appendix 1.3 for details of the CAD reference number and CAD rating*

## **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' concerns that the advertisement is pornographic and inappropriate for the station and time of day it was broadcast.

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



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

The Panel noted the Practice Note for the Code states:

*“Images which are not permitted are those which are highly sexually suggestive and inappropriate for the relevant audience. Explicit sexual depictions in marcomms, particularly where the depiction is not relevant to the product or service being advertised, are generally objectionable to the community and will offend Prevailing Community Standards.”*

### **Does the advertisement contain sex?**

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 the advertisement refers to orgasms, and contains sexualised images such as a people interacting with adult toys, a woman in lingerie, and a scene showing the implied use of a sexual product. The Panel considered that the advertisement did not contain explicit sex scenes, however the overall impression of the advertisement is one of sexual activity . The Panel considered that the advertisement did contain sex.

### **Does the advertisement contain sexuality?**

The Panel noted the definition of sexuality includes ‘sexual character, the physical fact of being either male or female; The state or fact of being heterosexual, homosexual or bisexual; sexual preference or orientation; one’s capacity to experience and express sexual desire; the recognition or emphasising of sexual matters’. The Panel noted that the use of male or female actors in an advertisement is not by itself a depiction of sexuality.

The Panel considered that the advertisement is promoting adult sexual devices and that therefore the product itself is sexualised. The Panel noted scenes referred to above, and considered that the advertisement did emphasise sexual matters and does depict sexuality.

### **Does the advertisement contain nudity?**

The Panel noted that the dictionary definition of nudity includes ‘something nude or naked’, and that nude and naked are defined to be ‘unclothed and includes something ‘without clothing or covering’.

The Panel noted that the people in the advertisement are not nude, however some are depicted in underwear. The Panel considered that the depiction of people in



underwear can be considered by some members of the community to be partial nudity.

### **Are the issues of sex, sexuality and nudity treated 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 considered that the requirement to consider whether sexual suggestion is 'sensitive to the relevant audience' requires 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 Panel noted that the advertisement was broadcast on TV On Demand, and that both complainants viewed the advertisement after 8pm. The Panel further noted the advertiser's response that the advertisement was scheduled to run only after 9pm and considered that while there was a slight discrepancy in timing, in either case the primary audience of the advertisement would be adult and children would be supervised.

The Panel acknowledged that the sexualised nature of the product and service may not be considered appropriate by people viewing the advertisement, however in this instance the Panel considered that the products depicted in the advertisement are products available for purchase from the advertiser. The Panel noted that some members of the community would prefer that these types of products are not advertised, however legally they are able to do so and a depiction of those products is not itself a breach of the Code.

The Panel considered that in the instance a child viewed the advertisement, the advertisement is quite subtle in its depiction of products – eg a vibrator used as a microphone, a device used invisibly (but showing a man react only). The Panel considered that while children may understand the overall concept of the advertisement, the specific scenes in the advertisement are unlikely to be understood by children. The Panel considered that given the timeslot in which the advertisement aired that the primary audience of the advertisement would be adult and any children would be supervised.

The Panel considered that the advertisement was sexually suggestive, but not highly sexually suggestive and that the advertisement did treat the issue of sexuality with sensitivity to the relevant audience.

### **Section 2.4 Conclusion**



The Panel determined the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant broad audience and did not breach Section 2.4 of the Code.

**Conclusion**

Finding that the advertisement did not breach any other section of the Code, the Panel dismissed the complaints.