



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0161/18
2	Advertiser	Sportsbet
3	Product	Gaming
4	Type of Advertisement / media	Internet
5	Date of Determination	11/04/2018
6	DETERMINATION	Dismissed

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 internet 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:

The ad is in extremely poor taste. It's depicting a male shaving his body hair in private areas. It's unacceptable to be showing this ad on websites such as foxsports.com.au given younger kids may be watching. It makes no sense how what the male is doing is actually relevant to gambling. I'm amazed the marketing department for Sportsbet thought this was acceptable content to show during the daytime on websites that young kids may be watching. I also believe I may have previously seen it on tv, but I cannot recall the details of this.

THE ADVERTISER'S RESPONSE



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

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 in



case 0116/18 and case 0137/18 where the Panel upheld complaints about the advertisement.

The Panel noted the complainant's concern 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.

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 waging 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 most children, especially young children, would not understand the context of the advertisement and considered that a depiction suggesting removal or trimming of pubic hair would be considered by most members of the community to be inappropriate for a broad viewing audience that would include children.

The Panel then noted that the advertisement was broadcast online on a sports specific website. The Panel considered that the internet medium for sports related content would have a broad viewing audience and would not be predominately children. The Panel noted that children may view such sports websites with adult supervision, but did not consider this to be a significant portion of the viewing audience of a sports specific website audience.

The Panel considered that it had previously upheld complaints against this advertisement in cases 0116/18 and 0137/18 which related to TV and Pay TV complaints. The Panel considered that the audience for a sports specific website is a targeted to a specific demographic, and that the audience for this type of content is more likely to be predominately adult orientated when compared to the viewing audience of Free to Air or Pay TV.

Following significant deliberation the Panel determined that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience of a sport specific website and determined that it did not breach Section 2.4 of the Code.

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

