



**Ad Standards** Community Panel  
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Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	<b>Case Number</b>	<b>0167/19</b>
2	<b>Advertiser</b>	<b>Spa World</b>
3	<b>Product</b>	<b>House Goods Services</b>
4	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
5	<b>Date of Determination</b>	<b>12/06/2019</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

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

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement displaying the features and benefits associated with owning and using a swim spa also depicts a woman in a one piece swimsuit using the product.

## THE COMPLAINT

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

*The young female has a very skimpy swimsuit. Doesn't look good.*

## THE ADVERTISER'S RESPONSE

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

*The lady in the advertisement is wearing a one piece swim suit not dissimilar to what you would see at any beach or public swimming pool. I believe that the lady is*



*appropriately covered and dressed for the activity of swimming and exercising in a swim spa, which is what we are advertising. When the ad was put together the shots chosen were to be in line with the purpose of the advertisement and to match the script/story line. I'm sure there are many examples on TV in advertising and programming with a General rating that are more revealing than the ad in question. I do not believe that this ad in particular breaches Section 2 of the AANA Advertiser Code of Ethics.*

*Please feel free to contact me with any questions.*

## **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 complainant's concern that the woman's swimsuit in the advertisement is skimpy.

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

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 this television advertisement is for pools and spas and depicts a woman in a black one piece swimsuit using the products. The Panel considered that the people depicted in the advertisement did not appear to be engaged in sexual activity of any kind. The Panel considered that the advertisement did not contain sex.

The Panel considered whether the advertisement depicted 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 for the application of the term in the Code, the use of male or female actors in an advertisement is not of itself a depiction of sexuality.



The Panel considered that the advertisement features a woman walking towards a spa and using a spa. The Panel considered that there is no emphasis of sexual matters and no emphasis on the woman's sexual character. The Panel considered that the advertisement does not depict sexuality.

The Panel considered whether the advertisement contained nudity and 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 considered that the Code is intended for the Panel to consider the concept of nudity, and that partial nudity is a factor when considering whether an advertisement treats nudity with sensitivity to the relevant audience.

The Panel noted the complainant's concern that the woman's swimsuit in the advertisement is skimpy.

The Panel noted that the advertisement depicted a woman in a black one piece swimsuit. The Panel noted that the woman's breasts and genitals are covered by the swimsuit. The Panel noted that the swimsuit is high cut over the woman's bottom, however considered that the swimsuit is not a g-string style, and her gluteal cleft is not visible. The Panel considered that although some members of the community would prefer the swimsuit to provide more coverage, the swimsuit is similar to current fashion trends and the woman is wearing the product in order to swim as intended.

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.

