



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

Advertising Standards Bureau Limited  
ACN 084 452 666

## Case Report

1	Case Number	0170/19
2	Advertiser	Shiploads
3	Product	Clothing
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	12/06/2019
6	DETERMINATION	Dismissed

### ISSUES RAISED

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

### DESCRIPTION OF THE ADVERTISEMENT

This television advertisement is for track pants. Half way through the advertisement a man is depicted with a pair of track pants pulled up to his stomach with no t-shirt on. Also depicted is a man with no shirt and the Shiploads logo in the front of his pants, and when the logo is removed blurring is visible at the top of his pants.

### THE COMPLAINT

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

*I am offended because half way through the ad it has a old man with a pair of track pants pulled right up with no t-shirt on and then it has a guy with no shirt on and the shiploads logo as his pubic hair directing kids eyes directly to his genital region and his pants are super low when the shiploads logo comes out from his pants you can see his semi blurred out pubes*

### THE ADVERTISER'S RESPONSE





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

*The Commercial in question has been aired in Tasmania over the last four years during winter to promote the sale of Track Pants.*

*The commercial has never received any complaints on any of the previous times it has been aired, all due process has taken place in relation to the advertising code, each yearly update has been approved by CAD and rated G for general viewing without restriction, if the add was deemed offensive in any way by CAD it would have received a rating of W for warning, which would have restricted where the add could be placed or we would have received numerous complaints in the previous four years.*

*The ad is designed simply to be light and humorous and non offensive, the use of people wearing track pants in this manner is no more offensive than regular displays of upper body shots that one would see regularly on the Beach, at the Gym, or a public swimming pool, In fact there would be more offence in the images of a calvin klein advertising campaign at your local DFO than there is in the Shiploads Trackpants TVC.*

*We believe the ad does not breach section 2.4 of the code, it does not in any way display Sex, Sexuality, or nudity, or even depict any reference to sex or sexuality, the pictures in question with the elderly gentleman if you look closely the track pants are in a fairly normal position they are not hitched up as to show other body parts as would happen if the hitching up was taken to the extreme, the same goes for the younger gentleman the trackpants are in a fairly normal position they are not slung so low as to overly accentuate anything at all in relation to sexuality or nudity.*

*In Summary we believe we are not in breach of the code, have complied with all current advertising codes, had the commercial rated by CAD for use in Australia and since there have been no other complaints in the previous four years, we request that the complaint be dismissed.*

## **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 advertisement features an elderly man with his track pants pulled up high, and a shirtless man with the Shiploads logo covering his pubic hair which is then removed to show his pubic hair blurred out. The complainant considers this depiction to draw the eyes of children to his genital region.

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 track pants. Half-way through the advertisement a man is depicted with a pair of track pants pulled up to his stomach with no t-shirt on. Also depicted is a man with no shirt and the Shiploads logo in the front of his pants, and when the logo is removed blurring is visible at the top of his pants.

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 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 that the advertisement contained an image of two shirtless men with track pants. The Panel considered that although the men are shirtless and this is a depiction of partial nudity, this depiction is unlikely to be considered an issue of concern to most members of the community.



The Panel noted the complainant's concern that one man is depicted with his track pants sitting low on his hips, and blurred out pubic hair. The Panel considered that the pixelating in the advertisement is sufficient to cover any indication of pubic hair. The Panel considered that this scene is very brief, and would be unlikely to attract the attention of children. The Panel considered that the man was not naked, that his pubic hair was not visible and that the advertisement did not contain nudity.

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.

