



## Case Report

1	Case Number	0174/16
2	Advertiser	Hotels Combined
3	Product	Travel
4	Type of Advertisement / media	TV - Pay
5	Date of Determination	27/04/2016
6	DETERMINATION	Dismissed

### ISSUES RAISED

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

### DESCRIPTION OF THE ADVERTISEMENT

The ad opens with Max (HotelsCombined mascot) seated at a desk in a hotel room watching a laptop with the content on the screen pixelated. The voice over says "Because some things online are best viewed from someone else's IP". The bear turns around to the viewer with a grumpy expression and shuts the laptop. The screen then shows five different types of hotel service (car park, restaurant, free WiFi, gym, spa) with Max's finger then 'pressing' Wifi to illustrate searching for this service using HotesCombined.com.au. The voice over says "Refine your search for the options you're after". The end frame shows Max standing alongside the HotelsCombined logo with the voice over saying "Compare with the bear, at HotelsCombined"

### THE COMPLAINT

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

*I was offended because there is a clear and strong inference that the bear is watching something either illegal or immoral- there is a clear suggestion the cartoon mascot bear is watching porn. This ad was viewed at 7:10pm on a Sunday evening between two family shows about cooking. One being Junior Bake off - a show about children cooking. The ad is inappropriate for this time slot due to the adult message conveyed.*

### THE ADVERTISER'S RESPONSE

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

*In no way, does the material breach section 2 of the Code of Ethics*

*The material in no way discriminates against or vilifies any person or group*

*The material in no way employs sexual appeal which is degrading to any person or group*

*The material in no way portrays violence*

*The material in no way shows sex, sexuality or nudity. The material is ambiguous with the following comment with respect to the complaint.*

*The HotelsCombined advertisement does not include sex, sexuality or nudity scenes. The purpose of this creative is to illustrate that HotelsCombined offers our users a valuable service whereby users can filter and select a hotel that offers free WiFi (amongst other services). The advertisement's use of a pixelated screen was deliberately employed as a creative technique to capture the attention of viewers.*

*The pixelated laptop, whilst ambiguous, was not a deliberate suggestion of "something illegal or immoral" and it was not a "clear suggestion the bear was watching porn". The pixelated screen and the use of "someone else's IP" suggests:*

- *The use of a free Wifi connection at a hotel would allow a user to download/stream legal content while avoiding bandwidth charges.*
- *The use of a free Wifi connection at a hotel could allow a user access to digital content not available at their home. For instance, accessing Apple iTunes libraries or Netflix catalogues in a different country often allows users access to different content. We also note that at the time of production, this was a notable topic receiving significant media attention <https://media.netflix.com/en/company-blog/evolving-proxy-detection-as-a-global-service>*

*HotelsCombined acknowledges the ambiguity of the material may have led some consumers to come to a different conclusion about the pixelated content. Since the material had been approved by CAD with a warning, HotelsCombined and our media agency were on standby to address any and all complaints. Immediately after receiving the one and only complaint, HotelsCombined instructed our media agency to change the timeslot of this creative so as to not appear before 9pm. This was actioned immediately. All networks confirmed this was actioned and the change was effective from the week commencing 10 April 2015. No further complaints have been received.*

*The material in no way uses offensive or obscene language.*

*The material in no way breaches community health and safety standards.*

## **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, which shows a cartoon bear watching a screen, infers that the bear is watching something illegal or immoral.

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

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 noted that the bear is watching a laptop with the content on the screen pixelated and the voiceover says "because some things online are best viewed from someone else's IP".

The Board considered the advertisement and was of the view that most people would consider the advertisement humorous rather than offensive.

The Board considered the inferred reference in the advertisement to watching something on the screen, ‘best viewed from someone else's IP’ and felt that the suggestion of any illegal or immoral behaviour was not an interpretation likely to be of concern to most people viewing the advertisement.

The Board noted the complainant’s concern that the advertisement was played between two family shows. The Board considered that young children would not be attracted to the advertisement and would be unlikely to understand the potential inference that the bear was watching something illegal or immoral (as suggested by the complainant). The Board considered that children were unlikely to interpret the advertisement as anything more than a bear watching a screen.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.

The Board determined that the advertisement did not breach Section 2.4 of the Code.

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