



**Ad Standards** Community Panel  
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Advertising Standards Bureau Limited  
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# Case Report

|   |                                      |                           |
|---|--------------------------------------|---------------------------|
| 1 | <b>Case Number</b>                   | <b>0176/19</b>            |
| 2 | <b>Advertiser</b>                    | <b>EC Credit Control</b>  |
| 3 | <b>Product</b>                       | <b>Finance/Investment</b> |
| 4 | <b>Type of Advertisement / media</b> | <b>Transport</b>          |
| 5 | <b>Date of Determination</b>         | <b>26/06/2019</b>         |
| 6 | <b>DETERMINATION</b>                 | <b>Dismissed</b>          |

## ISSUES RAISED

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

## DESCRIPTION OF THE ADVERTISEMENT

This transport advertisement features an image of a man from behind in a green field. The man is naked and seen jumping into the air. The words 'freedom from bad debtors!' are on the van along with details of the business.

## THE COMPLAINT

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

*Naked people should be displayed publicly.*

## THE ADVERTISER'S RESPONSE

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

*We have had this add on a billboard before many years ago without issue. This add*





*has been in circulation since 2006.*

*In response to the complaint, we have forwarded the image in question to you for review. This is an image we have been using since 2006, its been on a billboard in Qld before and this was done through an agency we believed had this approved by Ad standards as it was near a school and Public house.*

*As this was many years ago we don't have details of that. However the billboard was up for 2 years without complaint, this image is also used in a local directory without any issue for the last few years, please see attached.*

*I would suggest as we are a debt collection agency the complaint probably came from a debtor we have chased seeking some sort of personal retribution, this is very common in our industry as you can expect.*

*We await your decision and trust you will take into account the previous information.*

## **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 depicts a naked man in a field and that naked people should not be displayed publicly.

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 transport advertisement is for a credit control company and



features an image of a naked man in a field jumping into the air shown from behind. The text “freedom from bad debtors!” is displayed on the van along with details of the business.

The Panel considered that the person 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 the complainant’s concern that naked people should not be displayed publicly.

The Panel noted that the advertisement contained an image of a naked man shown from behind and that his buttocks are visible. The Panel considered that this is a depiction of nudity.

The Panel then considered whether the advertisement treated the issue of nudity with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code provides:

“Full frontal nudity and explicit pornographic language is not permitted. Images of genitalia are not acceptable. Images of nipples may be acceptable in advertisements for plastic surgery or art exhibits for example.”

The Panel noted they had previously considered a similar image featuring two women shown naked from behind in case 0035/18, in which:



“The Board noted that both images were on large windows on the outside of the store and therefore the relevant audience would include children walking past the store...The majority of the Panel however considered that this poster image was artistic and highly stylised and that the advertisement was not overly sexualised. The majority of the Panel considered that unlike the Lush Australia advertisement the current poster did not have close up full-body images of four women, in this poster the women are shown at the beach in the distance. The majority of the Panel considered that the artistic tone of the poster and the lack of sexualisation meant the level of sex, sexuality and nudity in the poster was not inappropriate for the relevant audience which would include children”.

In the current case, the Panel considered that although the man’s buttocks were visible this was not the focus of the advertisement. The Panel noted that there was a large amount of text in the advertisement, in a large font.

Consistent with the previous case, the Panel considered that the man was shown from a distance and considered that there was no overt nudity at a level that most members of the community would find confronting or unacceptable.

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.

