



**Ad Standards** Community Panel  
PO Box 5110, Braddon ACT 2612  
P (02) 6173 1500 | F (02) 6262 9833

**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

<b>1</b>	<b>Case Number</b>	<b>0183/19</b>
<b>2</b>	<b>Advertiser</b>	<b>Love Honey</b>
<b>3</b>	<b>Product</b>	<b>Sex Industry</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - On Demand</b>
<b>5</b>	<b>Date of Determination</b>	<b>26/06/2019</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

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

## DESCRIPTION OF THE ADVERTISEMENT

This TV on Demand advertisement begins with a doorbell ringing and someone opening the door to find a box on the doormat. A series of scenes showing people, kissing, undressing, embracing and appearing to be engaged in sexual acts. The voice over states, 'listen up Australia, Love Honey's at your service. Because who doesn't want better sex? So if it's your first sex toy tingle, or your next bedroom buzz, we've got it all. Because no matter who you are or who you share your sheets with it's time to say yes to more yes and turn on Australia.

## THE COMPLAINT

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

*I thought it was inappropriate for a program rated M.*

## THE ADVERTISER'S RESPONSE

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





*In response to the case dated 17th June 2019, please find enclosed the details of the advert, relevant content to assist the review and our viewpoint on this complaint*

*Product: Adult Products Industry  
Type of Advertisement / media: TV*

*A description of the Advertisement;  
A copy of the script has been included.*

- Female voice over introduces Lovehoney and 'Listen Up Australia - Lovehoney is at your service'*
- A series of different scenes with couples of most genres interacting in a fun, embracing and loving manner*
- The voice over asks 'who doesn't want better sex'*
- Montage of images of people walking around and showing excitement on their faces*
- The voice over suggests it doesn't matter who you are*
- Finishing with the tagline of "Say yes to more yes, and Turn on Australia"*

*Complaints are in regard to TV On Demand.*

*Lovehoney have strictly adhered to all CAD restrictions on free to air and have endeavoured to work with all channels on the best and most appropriate timeslots and programmes, based on viewer feedback.*

*The areas where Lovehoney constantly works with our media partners are;*

- Based on the volume of expenditure per advertising medium, we would allocate a budget per category eg FTA or Pay TV*
- We then revise the suggested media plan by our agency and look at each day, and each specific programme, and see if this is best fit for the brand*

*- Examples of this where we would encourage coverage are*

- o Programmes like Sex in the City (obvious cross over with our female demographics)*
- o Films – ideal for couples*
- o Lifestyle programmes*

*- Examples of where we have pulled our ads are*

- o Sports – State of Origin – due to the high probability of children watching*
- o Films post 930pm which are still family viewable – as a parent I am mindful that children's bedtimes vary, so only advertise on appropriate films*
- o Subject matters that would not best present the brand in the possible image eg documentaries on war, religion or conflict*

*- We also take on board feedback from complaints raised by the ASB*

- o There was a recent Law & Order programme that contained strong crimes which a viewer related to Lovehoney being inappropriate showing our advert at this time.*



*Whilst we were within the right time slot (late night) and the subject matter was totally unrelated to Lovehoney as a company, our media agents could not be confident of the subjects being discussed in this programme (TV channel don't provide this information). So, we pulled the spend on this programme and reallocated to another channel*

*o If we see a correlation of complaints to certain programmes, we will revise these programmes.*

*Lovehoney's brand positioning is to be inclusive of all genres and adult demographics. We are the "sexual happiness people" – this is our strapline and how we want to be presented to our potential customers. Therefore, on our website, customers communications and above the line advertising, we aim to embrace the enjoyment in purchasing adult products in a fun and happy way. We strongly position our brand not to offend or be sensationalist. Whilst we can never achieve this 100% of the time with the whole of society, this is our company brand positioning.*

*Your comprehensive comments in relation to the complaint (taking into account the need to address all aspects of the advertising codes).*

*There is no sexual content or explicit images in this ad.*

*The advertisement does not feature full nudity or product descriptions and we believe it communicates the products and services from Lovehoney with sensitivity and humour, as per Section 2.4 of the Code of Ethics*

*Overall, whilst carefully taking into consideration the complainants' viewpoints and suggestions, we believe that the advert doesn't contravene any areas as laid out in section 2 of the AANA Advertiser Code of Ethics. Also taking into consideration ASTRAs code of practice, we feel that the content of the advert is appropriate.*

*If you require any additional information or need to discuss this in great detail, please do not hesitate to contact.*

## **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 was inappropriate for broadcast in an M rated program.

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

The Panel noted that this Pay TV advertisement features the below scenes:



Time (seconds) - Visual - Voice over

- 1 - Open shot: Finger pushing doorbell cut to brown box on doormat - VO: Listen Up Australia
- 2 - Brown box on doormat with Lovehoney logo - VO: Lovehoney's
- 3 - Cut to people's feet walking on wooden floor - VO: at your
- 4 - Shoes being kicked off, woman being pulled along floor closer to man - VO: service
- 5-6 - Cut to male couple kissing by bookcase - VO: Because
- 7 - Cut to male and female kissing in a closet - VO: Who doesn't want better sex
- 8 - Cut to close up of hand undoing a zip
- 9 - Cut to woman's top of head/hair and arms on bed
- 10 - Cut to woman being playfully thrown onto bed
- 11 - Cut to male couple kissing lying down - VO: So
- 12 - Cut to lady in fishnet tights tapping thigh with feather tickler - VO: If it's your first
- 13 - Man appears from under bed sheets wearing an eye mask then cuts to couple looking in a brown box - VO: Sex toy tingle
- 14-15 - Male and female facial reactions looking into box - VO: or your next bedroom
- 16 - Cut to lady in red putting on black gloves – VO: buzz
- 17 - Close up of lady's face pulling on gloves - VO: We've got it all
- 18 - Cut to close up of montage of men and women walking in underwear from behind - VO: 'cos no matter
- 19 - - VO: who you are
- 20 - - VO: Or who you
- 21 - Cut to close up of man's face with open mouth - VO: share your sheets with
- 22 - Cut to close up of lady's face with open mouth lying on bed; fist clenching in sheets - VO: It's time to
- 23 - Cut to close up of man's face with open mouth against bed frame - VO: say yes
- 24-25 - Cut to close up of lady's face with open mouth lying on bed - VO: to more yes
- 26 - Cut to hand touching computer screen with Lovehoney logo
- 27 - Cut to lady leaning on kitchen counter looking at computer in shirt, underwear and stockings - VO: And turn on Australia
- 28 - Turn On Australia' copy appears on top of kitchen image
- 29 - Lady in t - shirt, underwear and stockings
- 30 - Lady taps thigh with feather tickler

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 TV On Demand advertisement is for an online store which sells sexual products. The advertisement depicts various couples in varying stages of sexual activity. The Panel considered that the advertisement did not contain explicit sex scenes, however the overall impression of the advertisement is that the couples were engaging in sex. The Panel considered that the advertisement did 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 depicts various couples in varying stages of sexual activity, some wearing costumes or holding a prop, and considered that this did emphasise sexual matters and does 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 people in the advertisement are not nude, however several are depicted in underwear or lingerie. The Panel considered that the depiction of people in underwear can be considered by some members of the community to be partial nudity.

The Panel then considered whether the advertisement depicted sex, sexuality and nudity with sensitivity to the relevant audience.

The Panel noted the complainant's concern that the advertisement is inappropriate for broadcast in an M rated program.

The Panel considered the meaning of 'sensitive' and noted that the definition of sensitive in this context can be explained as indicating that 'if you are sensitive to other people's needs, problems, or feelings, you show understanding and awareness of them.' (<https://www.collinsdictionary.com/dictionary/english/sensitive>)



The Panel noted that the requirement to consider whether a depiction of sexuality is 'sensitive to the relevant audience' is a concept requiring them to consider who the relevant audience is and to have an understanding of how they might react to or feel about the advertisement – the concept of how subtle sexual references is or might be relevant to the Panel considering how children, and other sections of the community, might consider the advertisement.

The Panel noted the advertiser's response that they had worked with the station on the most appropriate timeslots and programmes based on viewer feedback. The Panel noted that complainant had viewed the advertisement on SBS ON Demand during 'The Orville'. The Panel noted that this program is rated M, and noted that the complainant did not advise what time they viewed the program.

The Panel considered that "The Orville" was a program with a likely adult audience, and considered that the likelihood of children viewing the advertisement was low. The Panel considered that the advertisement does not show any of the products available for purchase from the online store, or depict any explicit sex scenes or nudity. The Panel considered that children may understand the concept of the advertisement, however considered that given the program in which the advertisement aired that the primary audience of the advertisement would be adult and children would be supervised.

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 complaints.

