



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0190/19
2	Advertiser	Tasmanian Bakeries
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	26/06/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

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

2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for National Pies features three men surfing. One of the men is seen removing his wetsuit in the carpark and his friends come around the corner as he is removing it. The friends are then seen laughing, eating pies and one of them does a backflip on the beach. A voice over recites 'surfing our cold waters down here can be bloody magical, except when the carpark flashing of butts is worsened by seeing your best mate's nuts. Forget it ever happened and stick a pie in National Pie hole. It's not just premium ingredients, our pies are made with heart and with soul, because what goes in the gap on your face between your nose and your chin is the pie for your National Pie hole'.

THE COMPLAINT

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

Object to the words 'seeing your best mates nuts' as it clearly talking about genitals

I don't feel that the wording referring to men's genitals is appropriate for day/evening





television. We try and teach our children to not use such bogan language, but when they hear it on TV, they think it is acceptable. There must be miriads of ways to get people to buy such an iconic Australian pie without resorting to this crude advertising. I am certainly no prude, but this is unacceptable- very demeaning, especially if this ad comes on when I am minding my young grandchildren. It's quite revolting.

The advertisement is vulgar, it shows nudity and refers to "seeing his mates nuts" I find it appalling that this advertisement got past censoring, I have a young daughter who is asking what "nuts" are.

Young men with surf boards. One was partially undressed. Voice over said in the form of a poem "seeing their butts is worse than seeing your mate's nuts" I was shocked that this advert was allowed to be released. This language is vulgar, unnecessary and a bad influence on children. I was watching with an 11year old boy.

THE ADVERTISER'S RESPONSE

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

To whom it may concern,

RE: Tasmanian Bakeries response to complaint reference number 0190/19

I write on behalf of Tasmanian Bakeries in response to your letter (dated 18 June 2019), regarding complaints received by your organisation relating to an advertisement we ran recently on free-to-air commercial television stations in Tasmania.

Firstly, I would like to thank you for bringing these concerns from members of the public to our attention. Tasmanian Bakeries takes feedback from our community very seriously and we appreciate the knowledge of any issues emerging from our latest campaign.

As such, we provide the following background and context to the advertisement in question for the benefit of the Ad Standards Community Panel in its review of these complaints.

Campaign background:

Tasmanian Bakeries recently launched a new advertising campaign to promote our National Pies product line, designed to celebrate our heritage and uniqueness with our fellow Tasmanians.

We have been making our famous National Pies since 1942 and we have stayed



proudly Tasmanian throughout this time. Through the new campaign, we wanted to celebrate our unique island state and remind our loyal community how lucky we are to live in such a special place.

The campaign highlights those eccentricities that are exclusive to our state, just as National Pies are uniquely and proudly Tasmanian. It is a tongue in cheek campaign that puts a mirror to the people of Tasmania and hopefully makes them smile.

We put a lot of thought and research into identifying specific scenarios, which only Tasmanians would recognise and relate to. These include the spectacular, yet freezing, surfing beaches of Tasmania and the challenges faced between surfing mates while trying to get changed in the cold, following a session in the water.

With eight scenarios created as part of the campaign, we recognise that not every one of them will be identified with by all in the community, but we hope there is at least one for everyone.

It was never our intention to offend anyone and we are sincerely sorry to hear there are people who find parts of the campaign offensive. We only ever sought to take a humorous look at some of those behavioural eccentricities which are distinctly Tasmanian – just as a National Pie is an integral part of the lives of many Tasmanians.

The advertisement under review

The advertisement depicting the 'surfing' scenario, referred to in the complaints received by Ad Standards, is the first of a series for this campaign, with others rolling out in the coming weeks.

The piece was stringently reviewed by the classification authority CAD and issued with a 'P' classification. We wholeheartedly respect this decision and guidance from CAD and consequently this piece was not booked in identified children's viewing times, which bear the lower ranked 'G' classification.

Again, it was certainly never our intention to offend anyone. The advertisement simply seeks to take a humorous look at some of those behavioural and language eccentricities which are distinctly Tasmanian and are a part of our everyday life.

Advertisement description

The execution of the 'surfing' scenario includes both a 30-second advertisement and a 15-second cutdown.

This specific ad tells the story of three mates who have just finished going for a surf. They return to their cars in the carpark and begin to get changed out of their wetsuits. One of the surfers accidentally exposes a part of himself to his mates while removing his wetsuit. The trio subsequently get changed, pack their surfboards into their cars



and take a moment to eat a National Pie back on the beach.

These two particular ads were scheduled to run on both Southern Cross and WIN from Sunday 2 June to Saturday 15 June. They are now currently not on Free to Air TV and are not currently scheduled to reappear on Free to Air TV as a 30-second or 15-second ad.

There is a 60-second ad which incorporates the 15-second content, along with other campaign scenarios, planned to run on Free to Air TV from Sunday 13 October to Saturday 19 October, and again from Sunday 27 October to Saturday 2 November.

Advertisement scripts

A copy of the full advertisement script is outlined below and is also attached.

30-SECOND AD

Vision: Friends get out of the surf and get changed in the car park.

Voice over: Surfing our cold waters down here can be bloody magical. Except when the carpark flashing of butts is worsened by seeing your best mate's nuts.

Forget it ever happened and stick a pie in your National Pie Hole.

It's not just premium ingredients, our pies are made with heart and with soul.

Because what goes in, the gap on your face between your nose and your chin is the pie for your National Pie Hole.

Super: Tasmanian Bakeries since 1942

Proper National Pies + PACK SHOT

15-SECOND

Vision: Friends get out of the surf and get changed in the beach's car park.

Voice over: Surfing our cold waters down here can be bloody magical. Except when the carpark flashing of butts is worsened by seeing your best mate's nuts – forget it ever happened and stick a pie in your National Pie Hole.

Super: Tasmanian Bakeries since 1942

Proper National Pies + PACK SHOT

AANA responses to specific issues raised

2.4 – Sex/sexuality/nudity S/S/N – nudity

One of the complaints received to date mentions concerns around showing nudity.

When filming and editing these ads, we were very careful to only imply nudity and not show full nudity. One of the male surfers is seen without a top on as he is removing his wetsuit. These in-focus shots only show the male from the waist up. On a wider-angle shot, you see two fellow males walking across the carpark, while in the foreground the first male is pulling his wetsuit down to the ground. This is out of focus and shows a minimal amount of skin to imply nudity only. We do not show full nudity at any point



in this advertisement.

2.5 – Language Inappropriate language

Some of the complaints received to date mention concerns around the use of the word ‘nuts’ when referring to men’s genitals. Other words that are often used to describe ‘nuts’ are ‘ballocks’, ‘balls’, ‘cullions’, ‘gonads’, ‘male genitalia’, ‘male sex organ’, ‘rocks’, ‘testes’ and ‘testicles’.

This advertisement is based on the unique Tasmanian insight and experience of surfing in our state, where it is a regular occurrence and sight in most surf spot carparks. In this execution it was felt that the use of the word ‘nuts’ was a much softer way to explain this scenario that many Tasmanian surfers experience.

CODE OF ETHICS SECTIONS

2.1 – Discrimination or vilification

There is no discrimination or vilification included in this advertisement

2.2 – Exploitative or degrading

There are no exploitative or degrading issues in this advertisement

2.3 – Violence

There is no violence depicted in this advertisement

2.4 – Sex, sexuality and nudity

The 30 second and 15 second Surfing ads imply nudity when three males are changing out of their wetsuits in a carpark after a surf. There is no footage of full nudity in these ads. There is no reference to sexuality or sex.

2.5 – Language

It was never our intention to offend anyone with the language used in this campaign, least of all families and children. The advertisement simply seeks to take a light-hearted look at some of those behavioral eccentricities which are distinctly Tasmanian – just as a National Pie is an integral part of the lives of many Tasmanians.

2.6 – Health and Safety

There are no Health and Safety issues in this advertisement.

2.7 – Distinguishable as advertising

This advertisement is very distinguishable as an advertisement. The end screen clearly shows company branding with ‘Tasmanian Bakeries Since 1942’ and ‘Proper National Pies’ logos, and a product shot of a National Pie. The voice over includes lines such as ‘stick a pie in your National Pie-hole’ as well as commentary on how National Pies are made, including their ingredients.



Further information

If the Panel requires any further information about this advertisement or any other advertisements in our National Pies campaign, please don't hesitate to contact me directly. Once again, I thank you for bringing this to our attention and for the opportunity to formally respond to those concerns raised.

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 complainants' concerns that the advertisement depicts nudity and contains a reference to genitals which is inappropriate for television.

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 National Pies. During the advertisement, a man is depicted removing his wetsuit in the carpark as a group of his friends come around the corner. The voiceover recites "surfing out cold waters down here can be bloody magical, except when the carpark flashing of butts is worsened by seeing your best mate's nuts".

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 the complainants' concern that the advertisement depicts nudity.

The Panel noted that the advertisement contained a scene of a man removing his wetsuit, that he is briefly shown from behind and that one of his buttocks is briefly 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 considered that although the man's buttock was visible this was not the focus of the advertisement, and the scene was very brief. The Panel 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.

The Panel considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: "Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided".

The Panel noted the complainants' concerns that the use of the word "nuts" was offensive and inappropriate for an audience which would include children.



The Panel noted that the advertisement received a 'P' classification from Free TV, and could be aired in any timeslot excluding children's programming.

The Panel noted the advertiser's response that the scenario depicted in the advertisement is common in Tasmania where the advertisement was broadcast.

The Panel noted the Practice Note to Section 2.1 which states:

"Words and phrases which are innocuous and in widespread and common use in the Australian vernacular are permitted (provided they are used in a manner consistent with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner). Examples are "bugger", "shit", "pissed off", "crap", "bloody", "cheap bastard", "bum", and "balls"."

The Panel considered that "nuts" is a similar level of language to "balls", and considered that the term is not used in a demeaning or aggressive manner in the advertisement.

The Panel considered that the word "nuts" would be considered by most members of the community to be mild and part of the accepted vernacular. The Panel acknowledged that some members of the public would prefer for this term not to be used in a context where children could hear it, however considered that most members of the public would consider the use of the word to be not inappropriate when used in the context of the scenario depicted in the advertisement.

The Panel considered that the advertisement did not use language which was inappropriate in the circumstances and did not contain strong or obscene language. The Panel determined that the advertisement did not breach Section 2.5 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaints.

