



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

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0199-21</b>
<b>2. Advertiser :</b>	<b>LifeStyles Healthcare</b>
<b>3. Product :</b>	<b>Sex Industry</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - On Demand</b>
<b>5. Date of Determination</b>	<b>14-Jul-2021</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

There are three versions of this TV On Demand advertisement, a thirty second version and two fifteen second versions.

The 30 second version features:

- Couple one: a woman reclining on the chest of a man while he strokes her arm. The woman kneels on a bed holding a pink sheet above her head, she bends down to kiss the man. A voice over states, 'he likes me for being me which is what matters'.
- Couple two: A man and woman sitting in a car, the woman is sitting with her back to the dashboard facing the man. He leans forward as though to kiss her.
- Couple three: A man kisses another man in a stairwell, and then pushes him against a wall. A voice over states, "sex is everywhere. Not really. It's just between us".
- Couple one kisses under the sheet. The voice over states, "I don't like pretending so I just tell him if it feels good, or if it doesn't".
- Couple two kiss in the car, and the man helps the woman remove her top.
- Couple three are kissing in a bathroom, with one of the men sitting on a benchtop next to a sink. He leans over and picks up a bottle of lubricant. A voice over states, "A sudden rush of electricity. The anticipation of what's next."
- Couple one are in bed with the sheet over them. The woman helps the man to remove his top. The woman grabs a condom out of a heart shaped container next to the bed. The voice-over says, "actually I really do like him".



The first fifteen second version of the advertisement features various couples kissing in different locations, including on the ground outside, in a car, in a stairwell, and underwater. A male voice over says, “sometimes the best moments are unplanned. It’s not always perfect but that’s OK.” A female voice over then says, “we are so good together”.

The second fifteen second version of the advertisement features a woman and man in bed together. At the start she is reclining on his chest while he strokes her arm. She then kneels above him with a sheet over her head, and brings it down on top of them as she kisses him. A male voice-over states, “anticipation is the best part.” She helps him remove his shirt and touches him on the nose. They kiss again. A female voice-over states “I’m always myself when I’m with him. So I tell him if it was good or if it wasn’t”.

### **THE COMPLAINT**

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

*Graphic nature of ad , 9now can be accessed by anyone with an internet connection, ad is totally unsuitable for younger audiences .*

*The show we were watching is a family rated show, clearly directed to family viewing with young or teenage kids. But with young kids I found it distasteful and uncomfortable to have to explain why people anticipate the pleasure of sex and why they use condoms!*

### **THE ADVERTISER’S RESPONSE**

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

*Thank you for giving LifeStyles Healthcare the opportunity to respond to the community complaint regarding our LifeStyles ® Great Expectations advertisement (the Advertisement) which is currently screening on NineNow and 10Play, and to provide our comment as to whether the Advertisement breaches the AANA Advertiser Code of Ethics (the Code).*

*The advertising depicts a number of individuals being playfully intimate with their spouse or partner in various locations such as in a car, in the corridor of a house and in a bedroom accompanied by meditative, electronic music and a voice over describing the anticipation and excitement of unexpected encounters. The language is vague and makes no express or specific reference to sex.*

*There is no overt nudity in the Advertisement, rather, it uses close images of a couple enjoying consensual intimacy with one another, and fully clothed for the most part with the exception of some brief images of underwear. The music is not sexual and there is also no language that is either vulgar or overtly sexual, as the voice-over*



*describes moments of anticipation and the excitement that comes with that, not overtly or expressly referencing sex and broadly referencing an overall approach to life. We do not believe that the Advertisement would expose those under the age of 18 to any vulgar or sexual imagery nor language at any point.*

*LifeStyles considers that the Advertisement meets the rigorous criteria prescribed by the Code as the content does not:*

*Discriminate or vilify any section of the community*

*Portray minors or any other individuals in any sexual way and nor does it contain any exploitative or degrading material*

*Contain any violence*

*Portray sex, sexuality and nudity insensitively to the relevant audience (more about this below)*

*Use obscene or vulgar language*

*Depict material contrary to health and safety standards*

*As a brand we always ensure that we do our due diligence in ensuring that the content of our advertising is appropriate for the audiences to which we are targeting.*

*Specifically, as all catch-up tv channels require a login, the Advertisement has only been served to accounts linked to the details of those who are over the age of 18 years old. There is also time targeting overlaid to ensure the Advertisement is only shown between the hours of 8:30pm and 5:30am.*

*Due to the likelihood that in this case the parent logged in on her account, the advertisement was shown as the system indicated the audience member was 18 years old or above.*

*The product advertised by the Advertisement have been openly displayed on supermarket shelves such as Coles, Woolworths and all major pharmacies for over 20 years. The Advertisement features a new design in packaging which has been displayed on shelves since around March 2021.*

*Nonetheless, to illustrate our commitment to the community and to take extra care in avoiding insulting or offending our unintended audience, we have arranged to implement a ratings filter to ensure that the advertisement only features during programs that are rated either M or MA.*

*We believe that the information set out herein will illustrate LifeStyles' commitment to the Code in our advertising however if Ad Standards has any further questions or requires any additional information, please do not hesitate to contact us.*

## **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 features sexual themes which aren't appropriate for the relevant audience.

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

**Section 2.4: Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.**

The Panel noted the Practice Note for the Code states:

*“Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisements for toiletries and underwear) is generally permitted but note the application of the relevant audience. More care should be taken in outdoor media than magazines, for example.*

*“Images of models in bikinis or underwear are permitted, however, unacceptable images could include those where a model is in a suggestively sexual pose, where underwear is being pulled up or down (by the model or another person), or where there is clear sexual innuendo from the ad (e.g. depicting women as sexual objects).”*

**Does the advertisement contain sex?**

The Panel considered whether the advertisement contained sex. The Panel noted the definition of sex in the Practice Note is “sexual intercourse; person or persons engaged in sexually stimulating behaviour”.

The Panel considered that the people kissing, the voice-overs talking about anticipation and sex, and the vision of the brand and condom packet at the end of the advertisement combine to give a strong suggestion in all three versions of the advertisement that the couples are about to engage in sexual activity.

**Does the advertisement contain sexuality?**

The Panel noted the definition of sexuality in the Practice Note is “the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters”.

The Panel noted that the advertisement is for a brand which sells condoms and lubricant and this in combination with images of couples embracing is a depiction of sexuality.

**Does the advertisement contain nudity?**

The Panel noted that the definition of nudity in the Practice Note is “the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity”.



The Panel noted that in the first version of the advertisement one of the women is seen to take her top off. However, the Panel noted that the view of the woman's body is blocked by the man's hand and the woman's skin is not seen.

The Panel noted that in all three versions of the advertisement men also remove their tops, however the camera angles mean that the men's exposed chests are not visible.

The Panel noted that the men and women in all three versions of the advertisement are depicted as being fully clothed, or otherwise covered, and the advertisement did not depict nudity.

### **Are the issues of sex and sexuality treated with sensitivity to the relevant audience?**

The Panel noted that the definition of sensitivity in the Practice Note is "understanding and awareness to the needs and emotions of others".

The Panel considered that the requirement to consider whether sexual suggestion is 'sensitive to the relevant audience' requires 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 Panel noted that this advertisement was broadcast on TV On Demand and that the complainants had viewed it while watching TV with their children.

The Panel noted the advertiser's response that the advertisement had been targeted towards users over 18 years old and was only shown after 8:30pm. The Panel further acknowledged the advertiser's commitment to only show the advertisement during M and MA rated programs from this point forward.

The Panel noted that many families view catch-up television together and that although the account holder may be over 18 years old this did not mean that only those over 18 years old would view the advertisement. However, the Panel considered that it would be unlikely for young children to be streaming television shows after 8:30pm without their parents' present.

The Panel considered that the couples were only depicted as kissing, removing top layers of clothing and embracing. The Panel considered that there was no depiction of sex, and the sexual suggestion came mostly from the product being advertised in combination with the images of couples kissing. The Panel considered there was no nudity or explicit language in the advertisement and the advertisement was not overtly sexual.

The Panel considered that the advertiser was selling a sexual product in a manner which did show sensitivity to the broad audience that may see the advertisement after 8:30pm.



### **Section 2.4 Conclusion**

The Panel determined the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

### **Conclusion**

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