



**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>0205-20</b>
<b>2. Advertiser :</b>	<b>Afends Clothing</b>
<b>3. Product :</b>	<b>Clothing</b>
<b>4. Type of Advertisement/Media :</b>	<b>Email</b>
<b>5. Date of Determination</b>	<b>8-Jul-2020</b>
<b>6. DETERMINATION :</b>	<b>Upheld - Modified or Discontinued</b>

### ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

### DESCRIPTION OF ADVERTISEMENT

This email advertisement features a picture of a topless woman wearing tracksuit pants lying on her stomach on a bed smoking a cigarette. Underneath this image is the heading "Wake & Bake" with the text, "as we slowly come out of isolation, local talents and good mates Alice Roberts and Jana Kim caught up with sisters and mega babes, Sabine and Nakisha Jamieson, for a mellow morning and little wake & bake sesh with the latest Afends unisex goods in hand. View the full shoot and video on the blog today."

The email also included other images:

- An image of a table top with a newspaper, two eggs on a plate, a mug of coffee, an orange juice, roll papers and an open jar containing what looks to be marijuana
- Three polaroid style images featuring , a woman smoking, a woman serving breakfast, and a woman wearing a hoodie and underwear holding a glass bottle of orange juice.
- A black and white image of a woman reclining on a couch, smoking, with the text 'I like watching the puddles/nd all I can do is just pour some/And speak my point/It's not'
- Three polaroid style images featuring a woman's feet visible under a stool wearing branded socks, a newspaper on a table with a black jar containing what looks to be marijuana and two women in long sleeve tops and underwear lying on a floor holding game controllers



- A black and white image of two women, one sitting above the other with the first woman smoking. The text 'And all I can do is just pour some /And speak my point of view but i /It's not same. In the background

### **THE COMPLAINT**

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

*Because I was the partner of an addicted Marijuana user and it isn't cool and should never be depicted as cool. It destroys everything in the users life and hurts the people around them, who love them. I believe that promoting drug use to a young demographic in a country where drug use is still illegal is highly irresponsible.*

### **THE ADVERTISER'S RESPONSE**

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

*I refer to your letter dated 24 June 2020 regarding the complaint received by Ad Standards about our marketing material "Wake & Bake". Your concern is that the advertisement may have breached AANA' Code of Ethics (Code) section 2.6 "Health and Safety/Depiction of Smoking/drinking/ gambling/drug use" (as expressed on page 3 of your letter).*

*I note that:*

- *The Code is a voluntary code, aimed at marketing self-regulation; and*
- *section 2.6 states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety"*

*Afends is a brand with a strong belief, based on environmental science, on the superiority of hemp used as a fibre for clothing and other uses compared with cotton (including because of the significantly less volume of water required to grow hemp compared to cotton, the quick growing time and no need for pesticides: <https://afends.com/pages/hemp-revolution>). Consumers generally know this about Afends.*

*Afends belief is that the use of alcohol, marijuana or other drugs is common in our society and is largely a matter of personal choice. It is fact of life, despite its legal status (since evolving, see further below), that marijuana use has been common in Australia since the 1960s. More recently:*

- *the 2007 National Drug Strategy Household Survey found that 23% of people aged 15-24 years reported using illicit drugs during the last 12 months, around twice as high as the proportion of people aged 25 years and over (11%). Marijuana/cannabis was the most common drug used by 15-24 year olds (18%);*



- *the Australian Secondary Students' Alcohol and Drug survey 2014: Cannabis was the most commonly used illicit substance with 16 per cent of students aged between 12 and 17 years ever using cannabis and 7 per cent using it in the month before the survey. The proportion of students using cannabis increased with age; and*
- *National Drug Strategy Household Survey (NDSHS) 2016: The most commonly used illegal drugs in the past 12 months were cannabis (10%), cocaine (2.5%), and ecstasy (2.2%)*

*So, drug use is a common and enduring feature of life in Australia. The use of marijuana is not considered shocking to society, as perhaps it was in the 1950s and early 1960s. Indeed, the legal position, both in Australia and internationally, has changed in recent years.*

*Recreational cannabis use is legal in in Canberra and in Canada, Georgia, South Africa, Uruguay, plus 11 states in the United States. Countries that have legalized medical use of cannabis include (but are not limited to) Argentina, Brazil, Canada, Chile Colombia, Czech Republic, Ecuador, Germany, Greece, Ireland, Israel, Italy, Jamaica, the Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Switzerland, Thailand, the UK and Zambia; plus many States in the USA.*

*That shows that community standards around marijuana are changing.*

*Afends marketing campaigns are pushed out to people who subscribe to our blogs. As required by law, there is an "unsubscribe" button on all such marketing material. The complainant can ensure that he or she does not receive these materials simply by not subscribing or, if they receive material not to their taste, deleting it and unsubscribing.*

*With social media and the internet, all people, including children, have access to an entire world of material, including about heavy drugs such as heroin and methamphetamines, sexual violence, religious violence, MMA cage fighting and all sorts of material that many find disturbing and offensive. Compared to this type of material, the content of the Afends wake and bake marketing material is relatively innocuous.*

*A simple Google search will show many on-line stores in the USA and Canberra advertising marijuana products. Presumably these sites are beyond the reach of the AANA yet this is as easily accessible as Afend's marketing. The complainant was concerned about her ex-partner's marijuana use and the ability of Afends marketing to influence young people. However, these same young people can see that it is now legal in many places and available for sale, including in Canberra, Australia's political capital. Society's position has and is shifting on the topic of marijuana use.*

*Alcohol can similarly have devastating impact on the lives of people who become alcoholics. But alcohol use is common in advertising, in popular culture like music videos and movies, is readily available in Australia and is common at large gatherings like the football or music festivals (in preCovid19 world).*



*Presumably the complainant's concerns extend to this as well.*

*Afends does not intend to continue with the Wake & Bake marketing material.*

## **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 promotes drug use to a young demographic where drug use is still illegal.

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

The Panel considered whether the advertisement was in breach of Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Panel noted that the advertisement featured depictions of what looks to be marijuana/cannabis and depictions of women smoking.

The Panel noted that it was not clear from the images whether the women were smoking cigarettes or illegal drugs, however in the context of the advertising campaign featuring the words 'wake and bake' and depictions of drugs the most likely interpretation is that the women are smoking illegal drugs.

The Panel noted the advertiser's response that drug use is a common and enduring feature of life in Australia and that recreational Cannabis use is now legal in Canberra and in many places overseas. The Panel considered that whilst some jurisdictions may have lowered the regulatory threshold for the use of cannabis, smoking and cannabis use is generally viewed as contravening overall prevailing community standards.

The Panel further noted the advertiser's response that the content of this marketing material is relatively innocuous in comparison to much of the material found online. The Panel considered that its role is to assess the content of the advertisement against prevailing community standards.

The Panel considered that it has consistently upheld complaints about advertising which showed people smoking cigarettes, such as in cases 0410-12, 0164-20 and 0311-19. In these cases the Panel has considered that while the community tolerates a level of smoking it does not tolerate images which promote smoking as glamorous or fashionable.

In the current advertisement the Panel noted that the overall impression of the advertisement was aspirational. The Panel considered that fashion/glamour style of



the advertisement amounted to a suggestion that smoking of either tobacco or cannabis is a desirable activity.

The Panel considered that it had also consistently determined that advertisements which depict or condone illegal drug use is against prevailing community standards on health and safety (0164-20, 0077-20 and 0495-18).

In the current advertisement the Panel considered that cannabis use is still illegal in the majority of Australia. The Panel considered that the advertisement contains a clear suggestion of recreational drug use through the use of the phrase 'wake and bake', the photos of what appears to be cannabis on the table and the depiction of the women smoking. The Panel considered that the images are positive and aspirational and present illegal drug use in a positive light.

Consistent with its previous determination the Panel considered that presenting smoking or drug use in a positive or aspirational manner is contrary to Prevailing Community Standards on health and safety and determined that the advertisement did breach Section 2.6 of the Code.

Finding that the advertisement did breach Section 2.6 of the Code, the Panel upheld the complaint.

#### **THE ADVERTISER'S RESPONSE TO DETERMINATION**

We won't be advertising with that content in the future.