



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0213-22
2. Advertiser :	Magic Touch
3. Product :	Sex Industry
4. Type of Advertisement/Media :	TV - Pay
5. Date of Determination	14-Sep-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

There are two versions of this Pay TV advertisement which features various people wearing and using the advertised products.

Version one includes the following:

- a voice over saying, 'be touched by magic with magic touch fun pleasure products. Her go to. His go to. Their go to. Go for something naughty. For something nice. For deeper satisfaction. Go for exciting. For daring. Go for bold. For more fun. Go for together time. Alone time. Go for discrete. Magic Tough fun pleasure products. Be touched by magic.'
- A woman in a black bra tossing her hair over her shoulder.
- A woman in a pink swimsuit emerging from the water
- A man is reading a book in bed, when another man enters the room and surprises him by hitting his own hand with a whip.

The second version includes:

- A voice over saying, "be touched by magic with Magic Touch fun pleasure products. Go for something naughty. For something Nice. Go for bold. For more fun. Magic Tough fun pleasure products. Be touched by magic."
- A woman in a pink swimsuit emerging from the water
- A man is reading a book in bed, when another man enters the room and surprises him by hitting his own hand with a whip.



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Pornographic content that should only be viewed by consenting adults, not available to anyone at any time.

THE ADVERTISER'S RESPONSE

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

Magic Touch Fun highlights the opportunity for couples of all genders to explore and investigate most possibilities of intimacy to enhance their personal time together through potential use of Magic Touch Fun products.

The commercial is created and designed with the considerations of today's modern all-inclusive gender fluid society and encourages those genders to explore and be open about who they identify as.

In a modern society there is nothing pornographic for a commercial rated M shown after 9pm with fully clothed consenting adults.

You will see by the attached schedule (mt cad Foxtel) that in fact no commercial was booked to run until 21:00:00 at the earliest on any given night, why the complaint refers to 8pm is unknown to myself.

The commercial is deemed to be of an M rating according to CAD which is recognized as representing the public's general interests and deemed the commercial as such it could in fact be shown to any person aged 15 and above between 7:30pm & 6am.

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 concerns that the advertisement is pornographic and inappropriate for the time of day it was broadcast.

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

Section 2.4: Advertising 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).

Images of naked couples embracing when viewed in a public space, has been found to be inappropriate and to not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience.”

Does the advertisement contain sex?

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 the advertisement contains sexualised images such as a people interacting with adult toys, a woman in lingerie, and a woman running her hands down a man’s bare chest. The Panel considered that the advertisement did not contain explicit sex scenes, however the overall impression of the advertisement is one of sexual activity. The Panel considered that the advertisement did contain sex.

Does the advertisement contain 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 the use of male or female actors in an advertisement is not by itself a depiction of sexuality.

The Panel considered that the advertisement is promoting adult sexual devices and that therefore the product itself is sexualised. The Panel noted scenes referred to above, and considered that the advertisement did emphasise sexual matters and does depict sexuality.

Does the advertisement contain nudity?



The Panel 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 noted that the people in the advertisement are not nude, however some are depicted in underwear. The Panel considered that the depiction of people in underwear can be considered by some members of the community to be partial nudity.

Are the issues of sex, sexuality and nudity treated with sensitivity to the relevant audience?

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 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 the advertisement was broadcast on Pay TV, and that the complainant stated they had viewed the advertisement after 8pm. The Panel further noted the advertiser’s response that the advertisement was scheduled to run only after 9pm and considered that while there was a discrepancy in reported timing, in either case the primary audience of the advertisement would be adult and children would be supervised.

The Panel acknowledged that the sexual nature of the product and service may not be considered appropriate by people viewing the advertisement, however in this instance the Panel considered that the products depicted in the advertisement are products available for purchase from the advertiser. The Panel noted that some members of the community would prefer that these types of products are not advertised, however legally they are able to be and a depiction of those products is not itself a breach of the Code.

The Panel considered that while children may understand the overall concept of the advertisement, the specific scenes in the advertisement are unlikely to be understood by children. The Panel considered that given the timeslot in which the advertisement aired that the primary audience of the advertisement would be adult and children would be supervised.



The Panel considered that the advertisement was sexually suggestive, but not highly sexually suggestive and that the advertisement did treat the issue of sexuality with sensitivity to the relevant audience.

Section 2.4 Conclusion

The Panel determined the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant broad 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 complaint.