



**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>0216-20</b>
<b>2. Advertiser :</b>	<b>Amazon Prime Video</b>
<b>3. Product :</b>	<b>Entertainment</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Free to Air</b>
<b>5. Date of Determination</b>	<b>22-Jul-2020</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This television advertisement is a promotion for the program Last One Laughing in which a group of comedians are locked in a room together, and features scenes from the program interspersed with the comedians speaking to camera in an interview style. Scenes depicted include:

- A person in a rainbow tulle skirt bent over and holding cooked noodles near their groin.
- A man wearing a long haired wig.
- A woman laying on the ground with her legs spread saying “come on in boys”
- A woman shaking water snake toys while sticking her tongue out.
- A man holding a pigs head.
- A man rolled backwards resting on his shoulders with his back and legs in the air, depicted wearing clear underpants. He is shown from behind only.
- A man having a pie pushed into his face.
- A man wearing a jacket with several fake rubber penises and scrotums attached, with one of the penises stretched so that its tip is in the man's mouth.

### THE COMPLAINT

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

*Some of these skits are not PG rated or even R rated, they are RX rated the most hard core adult and offensive material that could be shown. The one skit I saw and couldn't*



*believe my eyes was a dark-haired man with a beard and moustache on the show, with a number of prosthetic penis and male testicles attached to his body/top, where he had one in his mouth sucking on the penis!!!! mean, not only was this a shock for anyone to see, it was highly offensive and inappropriate to have on mainstream general time viewing for anyone to see, let alone children that may have been watching! What on earth do would they make of that? Its hard to imagine who or why someone would think that would be suitable to even use in the show, or as a promotion for it, let alone showing that on daytime or General for everyone's viewing. I would like this show to be investigated and to ensure it has the correct rating for the public, which would need to be viewed to see if it is appropriate and allowed to be accessed by the audience it is targeting And I believe and know these ads are completely inappropriate to show on TV. At least the one removed from TV that I saw with the man sucking the penises! Its going to take some time for me to get over that one! Let alone anyone else who saw it too! I would like to see this AD and AD's like them to be removed and the episode that has this one in it, removed from the series and/or properly rated! For the reason that it is very explicit, & offensive for many I'm sure, and would be also, if it were any other person or genitalia being shown, used and depicted performing a similar act upon!*

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

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

*The advertisement is compliant with each element of Section 2 of the Code, as detailed further below. The advertisement is a 30-second promo for the Australian unscripted comedy series Last One Laughing available on Amazon Prime Video. The advertisement highlights the silly and strange behavior of a group of comedians trying to make each other laugh along with their own commentary about how ridiculous the behavior was. It was rated by CAD as R (Key Number: AMA030LOLWR, CAD Reference Number: M7GZNEPA) and we have confirmed that the advertisement has not aired in any time slot in advance of 8.30pm.*

*2.1: The advertisement does not discriminate or vilify anyone based on race, ethnicity, gender, nationality, age, sexual preference, religion, disability, mental illness, or political belief.*

*2.2: The advertisement does not employ sexual appeal. There is a shot of a fully clothed woman in a shower cap on the ground saying "come on in boys" sarcastically, a less than one second shot of a man from behind where he is standing on his head in translucent shorts and a one second shot of a man with some novelty rubber penises attached to his coat, one of which is partially in his mouth as he bounces around in a silly manner. The very point of the behavior is that it is not sexually appealing but rather intended to be strange and funny.*

*2.3: There is no portrayal of violence in the advertisement. Someone gets a cake put in their face but it's not intended to, nor does it result in, physical injury.*



*2.4: There are no depictions of sex, sexuality or nudity that are insensitive to the audience. The shots mentioned in addressing subsection 2.2. are outlandish behavior being used by comedians to make their fellow comedians laugh. Because the spot was rated R by CAD, it was only run in time slots past 8.30pm in accordance with the ratings classification rules.*

*2.5: There is no strong or obscene language used in the advertisement.*

*2.6: There is nothing in the advertisement that is depicting material contrary to community standards on health and safety.*

*2.7: The advertisement is clearly distinguishable as an advertisement for the series available on Amazon Prime Video as it ends with a clear identification and call to action to viewers to “watch now” only on Amazon Prime Video and indicates that subscription fees apply.*

## **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 contain explicit material inappropriate for viewing by a general audience.

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 images depicted 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 considered that several of the short skits contained sexually suggestive behaviour, including a woman lying on the ground with her legs spread saying, ‘come on in boys’, and the depiction of the man with a fake penis in his mouth. The Panel considered that the advertisement contained 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 the use of male or female actors in an advertisement is not of itself a depiction of sexuality.

The Panel considered that the advertisement used several scenes which would likely be seen to recognise or emphasise sexual matters, including a person holding cooked noodles near their groin to represent pubic hair, the woman lying on the ground saying "come on in boys", the woman shaking water snake toys suggestively and the man with the penises sewn to his jacket.

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 a man is briefly seen from behind wearing clear underpants and that his buttocks were exposed. The Panel considered that although his genitals were not visible this was a depiction which may be considered partial nudity.

The Panel then considered whether the fake genitals attached to the man's jacket would be considered to be nudity. The Panel noted that it had previously considered whether realistic fake genitals could be considered nudity in case 0076-20, in which:

"The Panel considered that the first image featured what at first glance looks like a realistic image of a penis. The Panel noted that it is clear upon a closer look that the image is a mask and not a depiction of a real penis. The Panel considered that those unfamiliar with the product may not immediately recognise this as a costume and could consider it to be an image of a real penis. The Panel considered that a depiction of a realistic penis was a depiction which contained nudity."

In the current case, the Panel considered that the images of genitals were obviously fake and would not be confused with real genitals by anybody watching the advertisement. The Panel considered however that some members of the community would consider realistic representations of genitals to be a form of nudity. Consistent with the previous determination, the Panel considered that a depiction of a realistic penis was a depiction which contained nudity.

The Panel then considered whether the issues of sex, sexuality and nudity were 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' 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 suggestion is or might be relevant to the Panel considering how children, and other sections of the community, might consider the advertisement.

The Panel noted that this advertisement had been given a rating of M by ClearAds and as such it:

"May be broadcast during the following hours, except during P and C programs or adjacent to P or C periods:

Weekdays (schooldays):

- 7.30pm – 6.00am
- 12 noon - 3.00pm (see Note 1)

Public Holidays, Weekdays (school holidays) & Weekends:

- 7.30pm – 6.00am

In addition to the time restrictions, a Commercial classified "M" must NOT be shown: Between 5.00 am – 6.00 am and 7.30 pm - 8.30 pm during a Sports Program, or a Program classified G or PG; and

- Before 9.30 pm during Sports Programs and Films classified G or PG which commence before 8.30 pm and continue after 8.30 pm (unless it is a Film which is neither promoted to Children nor likely to attract a substantial Child audience)."

<https://www.clearads.com.au/wp-content/uploads/2020/02/ClearAds-Handbook-Edition-8.1.pdf>

The Panel considered that the relevant audience for this advertisement is adults and teenagers aged 15 and over.

The Panel noted the premise of the program is a group of comedians who are trying to make the others in the group laugh using anything at their disposal, to eliminate fellow contentants. The Panel considered that the montage of images shown in the advertisement were fast-paced and specific scenes are difficult to differentiate.

The Panel considered that each of the brief scenes shown were highlighting the over-the-top and comedic nature of the show and that there was not a specific focus on any one particular scene.

The Panel considered the scene where the woman is lying on the floor and says "come on in boys". The Panel considered that the woman is fully clothed and acting in a humorous rather than sexualised manner. The Panel considered that the reference is brief, not the focus of the advertisement and not inappropriate for a mostly adult audience.

The Panel considered the scene where a man is seen in see-through underwear from behind. The Panel considered that the man's genitals aren't seen and that the part of



his buttocks which is visible through the underwear would not be considered explicit nudity or inappropriate to be seen by a mostly adult audience.

The Panel considered the scene where a person is leaning over holding cooked noodles near his groin. The Panel considered that this could be seen as a representation of overly long pubic hair, however considered that this is not clear and in a fleeting scene as part of a longer advertisement would not be considered offensive or inappropriate by the mostly adult audience.

The Panel considered the scene with the man with fake genitals attached to his jacket. The Panel considered that the man was jumping around in order to make the fake penises move around, and that he had one stretched so that its tip was in his mouth. The Panel noted that this scene lasted for less than two seconds. The Panel considered that this could be seen as a reference to oral sex, however considered that the penises were obviously fake and the man's actions were comedic rather than sexual. The Panel acknowledged that some members of the community would be uncomfortable with the suggestion of sex and nudity in the advertisement, however considered that in the context of a fleeting scene in a longer advertisement the man's actions would not be considered offensive or inappropriately sexual by the mostly adult audience.

The Panel considered that the particular scenes of concern were fleeting and there was no focus on any particular scene. The Panel considered that the overall impression of the advertisement was one of extreme over-the-top humour. The Panel considered that although some of the fleeting scenes depicted sexualized humour this was not explicit or inappropriate for the relevant audience of adults and older teenagers.

The Panel considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience of an M rated advertisement and determined the advertisement 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.