



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0218-20
2. Advertiser :	Conga Foods
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	22-Jul-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.2 Exploitative or Degrading
AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a fictional cooking show celebrity making a comeback on her new program 'The Way it Should Be'. It opens with a host talking to camera about features and benefits of the brand before going off script.

KERRY: Sourcing Aussie Extra Virgin Olive Oil the way it should be - farm gate to farm gate, from a community of growers. (Drops character). I dated a grower once.

DIRECTOR: Cut. Next line is "giving Aussies easy access to great tasting extra virgin olive oil".

KERRY: Turns out he was giving easy access to a lot of people.

DIRECTOR: Kerry please!

KERRY: Squeaky gate to squeaky gate, if you know what I mean?

DIRECTOR: No, I don't know what you mean.

THE COMPLAINT

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

The ad makes no mention at all to the product and instead uses overt sexual innuendo as an attempt to be cheeky but comes across tasteless, crude and offensive. It is aired at all times of day and is embarrassing to watch in front of young children/teenagers, and being put in the position of having to explain the advertisement to them and



exposing them to inappropriate sexual content/references. As an advertisement for olive oil, one would expect references to colour, taste, quality, food etc, not sex. I have attached a link to the ad on YouTube for reference:

https://www.google.com/url?sa=t&source=web&rct=j&url=https://m.youtube.com/watch%3Fv%3DqhYJNM6geFs&ved=2ahUKEwiw_7-jwa7qAhXDyDgGHXOsDCUQwqsBMAN6BAgJEAM&usg=AOvVaw2JTnQzcBTQi4p8QGlgedJI

Jean Kitson is in a Studio advertising olive oil and makes a number of lewd sexual suggestions and innuendos Directed toward her young male Director in the ad making him very nervous and uncomfortable she talks about easy access and other innuendos that would not be acceptable if roles were reversed - the main target of the ad is harassing a male the whole Ad is pretty lewd and really inappropriate.

2.1 Discrimination and vilification

2.2 Exploitative and degrading

2.4 Sex/sexuality

The woman is implying by innuendo that the man is behaving promiscuously. If a man said that about a woman, all heck would break loose. This commercial shows a double standard. It is OK for women to make snide references about men, whereas society will not tolerate that about women.

THE ADVERTISER'S RESPONSE

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

AANA Code of Ethics Section 2

Issues raised to date

AANA Code of Ethics\2.4 Sex/sexuality/nudity\S/S/M - general

'Advertising or Marketing Communication shall treat sex, sexuality and nudity with sensitivity to the relevant audience'.

The ad has been classified as 'W' by the CAD review process. By definition, 'A 'W' placement is the equivalent of a G classification but requires special care in placement in G programs principally directed to children.' As per the Spotlist provided, this ad has not aired in any children's programs.

Our position on the remaining standards outlined in Section 2 of the code is as follows:

2.1 We reject any notion that the Squeaky Gate ad discriminates or vilifies on the basis of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.



2.2 *We reject any notion that the Squeaky Gate ad is sexually exploitative or degrading.*

2.3 *The Squeaky Gate ad does not present or portray violence.*

2.5 *We believe that language used in the Squeaky Gate ad is appropriate to our audience.*

2.6 *The Squeaky Gate ad does not depict material contrary to Prevailing Community Standards on health and safety.*

2.7 *The Squeaky Gate ad is clearly distinguishable with the relevant audience as advertising.*

This ad is not directed towards children with respect to either the creative or ad placement.

The product featured in this ad, extra virgin olive oil, is not directed towards children.

Regarding the specific complaints:

Complaint received on 02/07/20

AD DESCRIPTION: The ad focusses on an elderly woman (Jean Kittson) reminiscing about sexual relations she had with an olive grower.

REASON FOR CONCERN: The ad makes no mention at all to the product and instead uses overt sexual innuendo as an attempt to be cheeky but comes across tasteless, crude and offensive. It is aired at all times of day and is embarrassing to watch in front of young children/teenagers, and being put in the position of having to explain the advertisement to them and exposing them to inappropriate sexual content/references. As an advertisement for olive oil, one would expect references to colour, taste, quality, food etc, not sex.

'Reminiscing about sexual relations'

The ad mentions 'dating'. There is no reference to sexual relations nor does dating automatically lead to sex. This is the interpretation of the complainant.

'No mention at all to the product'

We disagree and refer to 'Sourcing Aussie Extra Virgin Olive Oil the way it should be - farm gate to farm gate, from a community of growers.' and 'Giving Aussies easy access to great tasting extra virgin olive oil'.

'Overt sexual innuendo' and 'having to explain the advertisement'

We believe the fact that this person needed to explain the ad to 'young children/teenagers' means that the humour is suitably subtle. Also, they are making a personal choice to explain the ad.

'Tasteless, crude and offensive'

Whereas this consumer considers the ad 'tasteless, crude and offensive', we have received a substantial number of consumer contacts complimenting the ad.



As an advertisement for olive oil, one would expect references to colour, taste, quality, food etc, not sex.

The is no overt reference to sex in the advertisement.

Complaint received on 06/07/20

AD DESCRIPTION: The connotation that the producer is sleeping around with virgins.

REASON FOR CONCERN: Sexual interference and not politically appropriate anymore

We consider that this consumer has misinterpreted the humour of the ad. We are certainly not implying sexual interference or that anyone is 'sleeping with virgins'.

We consider these complaints to be a matter of personal taste rather than any specific violation of the AANA Code of Ethics.

Consumer Research

We understand from consumer research undertaken that the humour of the ad does not appeal to everyone. This is to be expected as people differ in what they find humorous or appealing.

Overall, we found that enjoyment of the ad was consistent with industry norms and that many people liked the 'cheeky' humour of the ad.

It is also worth noting that this ad has been in the market since September 2018 and we have received no previous complaints.

AANA Food and Beverages Advertising Code

We confirm that the product is fairly and accurately represented in accordance with the AANA Food and Beverages Advertising Code.

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:

- Insinuates that it is OK for a woman to make snide references about a male being promiscuous, which would not be tolerated about a female.
- Features a woman harassing a male by making lewd sexual suggestions and innuendos directed towards the young male director
- Features overt sexual innuendo which is inappropriate for children or teenagers to hear



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

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

"Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."

The Panel noted the complainants' concern that the advertisement insinuates that it is acceptable for a woman to make snide references about a male being promiscuous, which would not be tolerated about a female.

The Panel noted that its role is to consider the content of an advertisement as it exists, and not hypothetical alternative scenarios.

The Panel considered that the advertisement featured a woman reminiscing humorously about a previous relationship with a grower, in which she notes that 'he was giving easy access to a lot of people'.

The Panel considered that this statement insinuated that the grower was also engaging in sexual relationships with other people at the time of their relationship.

The Panel considered that the woman did not seem upset or bitter about the grower's behaviour and that she didn't speak about him in a way which would incite hatred or contempt.

The Panel considered that the grower referenced in the advertisement was not shown to receive unfair or less favourable treatment and was not referenced in a way which would humiliate, intimidate or ridicule the man, or men in general.

The Panel noted the complainant's concern that the advertisement features a woman harassing a male by making lewd sexual suggestions and innuendos directed towards the young male director.

The Panel considered that the male director is shown to be the woman's employer and is not her employee or in a position where he is vulnerable.

The Panel considered that the woman's comments are in relation to a previous relationship, and she is not making any comment about the director.



The Panel considered that the male's reaction to the woman is one of frustration that she is not saying her lines correctly, rather than being humiliated or offended by what the woman is saying.

The Panel considered that the director was not shown to receive unfair or less favourable treatment and was not referenced in a way which would humiliate, intimidate or incite hatred, contempt or ridicule towards the man, or men in general.

Overall the Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender and determined that the advertisement did not breach Section 2.1 of the Code.

The Panel considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: "Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people."

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised. Degrading – lowering in character or quality a person or group of people.

The Panel noted the complainant's concern that the advertisement features a woman harassing a male by making lewd sexual suggestions and innuendos directed towards the young male director.

The Panel considered that the woman's comments were reminiscing about a previous relationship and were not made about the director. The Panel considered that the director was not the target of unwanted sexualised attention and that no reference was made to the way he looks. The Panel considered that the man was dressed in a manner appropriate to the situation and there was no focus on his body or sexuality. The Panel considered that the advertisement did not employ sexual appeal of the male.

Finding that the advertisement did not employ sexual appeal the Panel determined that the advertisement did not breach Section 2.2 of the Code.

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 the advertisement featured sexual innuendo in the phrases 'easy access' and 'squeaky gate to squeaky gate', however considered that this was not an explicit reference to sex. The Panel considered that the advertisement did not contain sexually stimulating or suggestive behaviour.

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 featured sexual innuendo in the phrases 'easy access' and 'squeaky gate to squeaky gate' and that this may be considered a recognition or emphasis of sexual matters. The Panel considered that the advertisement did contain 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 everyone in the advertisement was fully clothed at that the advertisement did not contain nudity.

The Panel then considered whether the issue of sexuality was 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 is 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 'W' rating by ClearAds meaning that the advertisement, 'may be broadcast at any time except during P and C programs or adjacent to P or C periods. Exercise care when placing in G programs principally directed to children.'

The Panel considered that the relevant audience would likely be broad and include children.

The Panel considered that the statement, 'he was giving easy access to a lot of people' would be understood by adult audiences to be that the grower was also engaging in sexual relationships with other people at the time of their relationship.

The Panel considered that this was not a phrase which would be easily understood or interpreted by children to have a clear sexual connotation.

The Panel considered that the statement 'squeaky gate to squeaky gate, if you know what I mean?' was said in a way which indicated that it was an innuendo, however the meaning of this phrase is less clear. The Panel considered that it may be a reference to bed springs, but that this interpretation was not clear to adults and would not be understood by children. The Panel considered that the Director's response 'no I don't know what you mean' was an indication that this phrase is not easily interpreted.

The Panel noted that it had consistently determined that advertising with mild sexual references, which would not easily be understood to be sexual by children, were seen to treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience (0015-19, 0057-19, 0094-19, 0145-19).

Consistent with previous determinations, the Panel considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience 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.