



Case Report

1	Case Number	0231/13
2	Advertiser	Reckitt Benckiser (Aust) Pty Ltd
3	Product	Sex Industry
4	Type of Advertisement / media	TV
5	Date of Determination	24/07/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement, Telling Smiles, is for Durex Play Lubricant. It opens with a short frame of a man and woman sitting up in bed, and with her partner kissing her neck. The woman has a big smile on her face. The Advertisement then cuts to the rest of the woman's day, which comprises the majority of the 30 second advertisement, throughout which she maintains a big smile on her face including during a business meeting, at a photocopier and when her car has a flat tyre. It ends with her coming home to a man sitting on a bed holding a tube of Lubricant kissing her neck, again with a big smile on her face.

THE COMPLAINT

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

This is not suitable to be showing on television and I felt as though it portrayed sex as a recreational pursuit without consequences, especially as condoms can and often do fail (as a pregnancy counsellor, I can attest to this).

People should not be subjected to this type of advertising. I felt disgust at what was portrayed and will not be watching again. The later time cannot justify this offensive ad.

Really found it offensive to watch with my small child in room, have also seen during day and felt quite inappropriate for daytime, would assume it should be late after 9:30pm.

I was offended that it is discussing sex during the day when my child is home and being shown at family times not after 9:30pm which is more appropriate.

I like to judge a program as to whether it is suitable for my children & I can do that with the ratings, but I cannot control the advertising and whether it is suitable. But surely during the school holidays showing a M rated movie like Harry Potter was always going to get a junior audience and I believe this advertising was unacceptable.

The content is about sex and products used to enhance sexual satisfaction. I think this is too explicit to sit and watch with my children and not the type of content that children and young teenagers should be exposed to.

Our 13 year old son and 15 year old daughter were clearly uncomfortable with the highly sexual content of the ad. It is completely inappropriate.

I am watching a PG rated tv show with my 14 year old daughter and this ad comes on, showing people in bed. The content and language used is not appropriate to a PG rated time-slot. How are we to 'parentally guide' our kids when these ads come on without warning? Are we to quickly turn the channel or cover their eyes and ears? It is totally unacceptable for this time slot.

Children (including teens) don't need advertising for sex lubricants thrown in their faces on the television at any time. It's getting more and more ridiculous with the content that you allow in advertisements these days. I'm fed up with feeling uncomfortable watching television with my children in the room. It needs to stop NOW!!

I was highly offended because I was watching a PG rated programme with my 10 year old daughter when this ad aired the first time at 8.45 and then continued to be advertised during almost every ad break throughout the movie. I don't believe this is an appropriate subject matter to be advertised during PG rated programming, nor in a pre 10:30 time slot.

THE ADVERTISER'S RESPONSE

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

The Advertisement is for RB's Durex Play Sweet Strawberry, Warming, Feel and Perfect Glide Lubricant (the Product).

Complaint(s)

In our view the issues raised in the complaints can be grouped as follows:

- 1. that the Advertisement is too explicit or inappropriate for children and teenagers;*
- 2. the Product appears to be phallic shaped or "in the shape of a penis";*
- 3. that the Advertisement aired in an inappropriate time slot.*

Submission

As you are aware, RB takes complaints about our advertising seriously. In making this submission, RB has considered:

1. Section 2 of the AANA Advertiser Code of Ethics (the Code) as a whole. RB believes that the only provision of section 2 which has any potential application to the Advertisement, having regard to the Issues (but which is not breached by the Advertisement), is section 2.4, which provides that "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience".

2. The AANA Code for Advertising and Marketing Communications to Children, including section 2.4 which amongst other things provides that Advertising or Marketing Communications to Children "(a) must not include sexual imagery in contravention of Prevailing Community Standards."

We have detailed below the reasons why RB is entirely satisfied that it has complied with the Code.

Issue 1

Issue 1 is directed at the content of the Advertisement and the way sex, sexuality and nudity are treated in the Advertisement.

RB submits that:

1. there is no actual or gratuitous sex depicted to convey the Product. Sex is only referenced suggestively/inferentially (when the female model sits up and when the male model is sitting on the bed). In fact the models are not depicted lying down at any time -they are at all times sitting up and at most sex is suggested as innuendo;

2. to the extent that any Children (as that term is defined in the Code) would be viewing the Advertisement during the programs during which it aired, it is unlikely that they would understand the sub-text behind the merely suggestive images and words;

3. there is no nudity, and no genitalia are exposed - only faces and the upper halves of the bodies of the models are visible,

4. the fact that the male model is holding the Product on a bed (in a tube, similar to any cream or other such product) would not necessarily be understood by Children as being connected with sex;

5. the majority of the Advertisement features a woman smiling as she goes about her daily routine at work; and

6. the tone of the Advertisement is in line with all of Durex's advertising which is to engage our target audience with sensitivity and humour.

Issue 2

Issue 2 relates to the packaging of the Product and, as such, in our submission falls outside the scope of the codes administered by the Board. Nonetheless, in the event the Board should choose to address this concern, RB submits that:

- 1. the Product is packaged as a tube and serves a practical purpose;*
- 2. at most the Product packaging is mildly suggestive in the context of the Advertisement;*
- 3. in the context of the prevailing community standards, the majority of the relevant audience would not find it offensive or inappropriate.*

Accordingly, in the event the Board does consider this issue, this aspect of the complaints should be dismissed

Issue 3

This issue deals with the programming of the Advertisement. So far as programming is concerned:

- 1. the Advertisement ran principally on subscription TV (STV) 1*
 - . It did not air on any dedicated children's channels;*
 - 2. in a limited number of cases the Advertisement ran on free to air TV. In each of those cases, the Advertisement aired after the commencement of a programme at 8:30pm;*
 - 3. so far as the complaints 01231/13 are concerned, none of them related to the airing of the Advertisement before the commencement of a programme at 8:30pm. In particular:*
 - a. the first complaint received on 25 June 2013 related to a screening of "Under the Dome". The Advertisement aired at 10:58pm;*
 - b. the second complaint received on 25 June 2013 does not specify the name of the show, channel or time of the Advertisement;*
 - c. the third complaint received on 25 June 2013 is specified to relate to the airing of the Advertisement at 10:20pm;*
 - d. the complaint received on 24 June 2013 is specified to relate to the airing of the Advertisement at 8.50pm on Channel 10.*
 - 4. RB submits that the Advertisement was acceptable in accordance with prevailing community standards when one takes into account the fact that the context. The Advertisement aired during adult time slots during programmes which commenced after 8:30pm. Such an audience would be unlikely to be offended by a mildly suggestive Advertisement for lubricant. The Advertisement did not depict nudity or any direct sexual images. Sex was only suggested in the Advertisement inferentially (by the woman sitting up, the man sitting on a bed and the woman smiling). In the event that notwithstanding the time at which the Advertisement was aired, children were in fact watching STV or free to air TV, those inferences would not be understood by children as relating to sex.*

In light of the above, we strongly urge the Board to dismiss the complaint in its entirety and we look forward to receiving the Board's determination in due course.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that the advertisement is overtly sexualised, offensive and contains imagery and themes that are not appropriate for viewing by children.

The Board viewed the advertisement and noted the advertiser’s response.

The Board 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 Board noted that the advertisement depicts a bedroom scene firstly and a man and a woman who appear to have had intimate relations. The woman is smiling. The advertisement shows the woman waking the next day and at work where she attends meetings and other tasks with a continual smile on her face. When she returns home, her partner is holding a bottle of the durex lubricant and the voiceover states that “when great sex moves you, your smile stays with you.”

The Board noted that the advertisement depicts two brief scenes of a couple in bed. The Board considered that there is a suggestion of sex, but that the depiction is brief and relative to the product. The Board noted that the “M” rating given by CAD and noted that the advertisement had been aired in the appropriate time slot for the rating.

The Board noted the complainant’s concerns that the bottle that the lubricant bottle, is phallic in shape and appearance. The Board agreed that there are many toiletries such as deodorants that are similar in their packaging and that a sexually suggestive appearance is an interpretation that is not likely to be shared by the broader community.

The Board noted that the advertisement has continued sexual suggestion throughout, but that most members of the community would consider the nudity and depictions of sexual activity sexually suggestive but not inappropriate considering the product and timezone.

The Board considered that the content of the advertisement was not inappropriate for viewing by a mature audience.

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

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.