



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0235-21
2. Advertiser :	Hard Fizz
3. Product :	Alcohol
4. Type of Advertisement/Media :	Internet - Social - Instagram
5. Date of Determination	25-Aug-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.2 Exploitative or Degrading
AANA Code of Ethics\2.4 Sex/sexuality/nudity
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This Instagram post is a segment of a music video clip posted on the Hard Fizz Instagram page.

THE COMPLAINT

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

It's such an irresponsible piece of content and shows that you have to have alcohol to get through life

- *Alcohol brands objectifying women*
- *Portraying alcohol as a refreshment / hydration beverage in replacement of water during exercise*
- *misuse of alcohol: the first scene is Fisher drinking the alcohol, and then he starts acting silly depicting he is drunk, and the end scene is him skulling another can*

Besides this there are many images and videos on their social pages that promote irresponsible drinking

THE ADVERTISER'S RESPONSE



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

We refer to recent Ad standard complaint 0235-21

In relation to the Instagram post, this was Hard Fizz sharing the content produced by one of our Founders Paul Fisher, aka FISHER. This content is a 'film clip' produced by his production and management team to support his new track 'Just Feels Tight', which was globally launched on the same day as afore mentioned Instagram post on Youtube amongst other music platforms globally.

This content is not an advertisement produced by Hard Fizz and was simply sharing the success of one of our FIZZ family which has been mooted as Grammy award winning music and worthy of celebration for an Australian artist.

It was not the intent of the post in question to offend or promote irresponsible behaviour and refute the claim that there are many images and videos on our pages that promote irresponsible drinking.

We will continue to build the brand in the marketplace in a responsible manner and will be consulting industry along the way

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 objectifying of women and features unsafe drinking behaviours.

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

Section 2.2: 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.*

Does the advertisement use sexual appeal?



The Panel considered that the advertisement depicts a number of women in exercise gear along with the lyrics, 'just feels tight' and considered that this is a depiction which contained sexual appeal.

Does the advertisement use sexual appeal in a manner that is exploitative?

The Panel considered that the context of the advertisement was a music clip, and considered that the women in the advertisement were depicted as taking an active role in dancing and participating as dancers. The Panel considered that the advertisement did not depict the women as objects or commodities.

The Panel noted the advertisement was on the Hard Fizz Instagram page, featured the Hard Fizz product prominently and included the hashtags, "#fizzfriday" "#letsgetfizzical", "#hardfizz" and "#letsgetfizzy". The Panel determined that the advertised product was the Hard Fizz brand and products and noted that any focus on body parts must be directly relevant to the product being created.

The Panel noted that the advertisement was in the context of a music video set in an aerobics class. The Panel considered that the scenes of the dancing women were fast-paced and while the women had a fair amount of skin exposed, in the overall advertisement there was no particular focus on any body parts.

The Panel considered that the advertisement did not employ sexual appeal in a manner which is exploitative of women.

Does the advertisement use sexual appeal in a manner that is degrading?

The Panel considered that the depiction of the women was relevant to setting of an aerobics class and that this did not lower women in character or quality.

The Panel considered that the advertisement did not employ sexual appeal in a manner which is degrading to women.

Section 2.2 conclusion

Finding that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of an individual or group of people, the Panel determined that the advertisement did not breach Section 2.2 of the Code.

Section 2.4: Advertising or Marketing Communications 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)."

Does the advertisement contain sex?

The Panel considered whether the advertisement contained sex. The Panel noted the definition of sex in the Practice Note is "sexual intercourse; person or persons engaged in sexually stimulating behaviour".

The Panel considered that there is no sexual activity depicted in the advertisement. The Panel considered that the advertisement did not contain sex.

Does the advertisement contain sexuality?

The Panel noted the definition of sexuality in the Practice Note is "the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters".

The Panel considered that the advertisement is set in the context of an aerobics class, and the outfits worn by the women were consistent with this setting, however the depiction of the male in underwear in combination with the women in leotards and dancewear may be considered sexualised.

In particular, the Panel noted a short scene where the male instructor is seen to be posed behind a reclining woman helping her to lift her leg over her head. The Panel considered that the interaction between the man and woman could be considered sexualised.

The Panel also noted the lyrics, "just feels tight" and considered that these could be seen to have a sexualised meaning.

Does the advertisement contain nudity?

The Panel noted that the definition of nudity in the Practice Note is "the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity".

The Panel noted that the women were dressed in leotards and dancewear, however noted that in some cases a large portion of their buttocks is visible. The Panel further noted that the man in the advertisement partially undresses so that he is in his underwear and considered that this did constitute partial nudity.

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



The Panel noted that the definition of sensitivity in the Practice Note is “understanding and awareness to the needs and emotions of others”.

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 this advertisement was an Instagram post by an alcohol brand and the relevant audience was most likely to be adults over 18 years of age.

The Panel noted that the depiction of women in dancewear, suggestive moves while dancing and the lyrics ‘Just feels tight’ were appropriate to the setting of an aerobics video and in the context of a music video.

The Panel noted that although the man in the advertisement is shown in his underwear, his genitals are not visible and his actions are not overly sexualised.

Overall, the Panel considered that the sexuality and nudity in the advertisement were treated with sensitivity to the mostly adult Instagram audience.

Section 2.4 Conclusion

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

Section 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel noted the complainant’s concern that the advertisement suggested that alcohol should be consumed instead of water while exercising.

The Panel considered that the advertisement was in the context of a music video, and the overall impression was that the setting was closer to a nightclub than an actual aerobics class. The Panel considered that the advertisement was clearly fantastical and was unlikely to lead to the impression that alcohol was a replacement for water while exercising.

Section 2.6 conclusion

The Panel considered that the advertisement did not contain material contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

Conclusion



Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.

ABAC Code

The Panel noted that advertisements about alcohol products may be considered against the provisions of the AANA Advertiser Code of Ethics as well as the Alcohol Beverages Advertising Code Scheme (ABAC). The Panel noted that complaint/s in this case were referred to ABAC for assessment. The Panel noted that the ABAC Responsible Alcohol Marketing Code (ABAC Code) is an alcohol specific code of good marketing practice and has specific standards which apply to the promotion of alcohol products. The Panel further noted that it can only consider complaints about alcohol advertising under the concept of prevailing community standards as set out by the AANA Code of Ethics. The Panel noted that the advertisement may be considered by the ABAC Chief Adjudicator or the ABAC Adjudication Panel applying the ABAC Code, as well as this determination under the Code of Ethics.