



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0245-20
2. Advertiser :	Foxtel
3. Product :	Entertainment
4. Type of Advertisement/Media :	TV - On Demand
5. Date of Determination	26-Aug-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification

DESCRIPTION OF ADVERTISEMENT

This TV on demand advertisement features a man (Greg) as a spectator at what appears to be a sporting event. As the camera zooms out the crowd in the background disappears and it becomes clear that he is at home sitting in a lounge room with his family. Two players run in front of him, followed by a ref who blows his whistle. An older woman sits on an armchair to the side of the room knitting. She looks up and states, "my kidneys have got bigger stones than him." She stands up and throws her ball of wool towards the television. Greg says, "oh nan". A football then comes out of television and hits Greg in the face.

The voice over for the advertisement states, "Well. Would you look at Greg. Never seen him so happy. Pig in mud. The footy's back, the gangs all here, someone just brought him a beer. His teams even winning and doesn't Greg know it. Happy Greg. Smug Greg. Nothing can ruin Greg's vibe. Nice try, Mother of Greg. Your home, your stadium. All in one place."

THE COMPLAINT

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



At the end of the advertisement, the 'Grandmother' of the family states: "my kidneys have got bigger stones than him". The Grandmother's reference is clearly in relation to a player on the NRL game being watched by the family. The use of the phrase by the Grandmother is an example of toxic masculinity. The reference relates to promoting a culture of men not being deemed masculine if they do not have large 'testicles', or as a more common colloquialism/slang 'balls' or in this case 'stones'. The advertisement implies the Grandmother would be watching a male NRL player who had either (a) failed to recover from an injury and therefore was deemed not to have the 'stones', 'balls', 'masculinity' to carry on playing; (b) had failed to deliver a strong enough offensive 'attack' during the game to an opponent and is being deemed as 'weak'. Toxic masculinity is a widely known issue effecting a variety of members of the public. The concept of Toxic Masculinity is a cultural issue affecting a number of different sectors. Many articles exist on this issue:

Victorian Government: <https://www.vichealth.vic.gov.au/letter/articles/issue-49-certified-male>

The ABC news articles: <https://www.abc.net.au/news/health/2019-02-05/mens-mental-health-masculinity-gendered-psychology-guidelines/10768294>

Australian Defence Force reports:

https://www.defence.gov.au/adfj/Documents/issue_203/ADF%20Journal%20203_Article_Goyne.pdf

The advertisement is a failure on behalf of Foxtel to take into consideration the use of 'slang' terminology in context of a cultural environment which regularly faces toxic masculinity.

THE ADVERTISER'S RESPONSE

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

We refer to the Complaint made against Foxtel Management Pty Limited (Foxtel) which was received from Ad Standards on 4 August 2020.

Description of the Advertisement

From the information provided by Ad Standards, we understand that the Complaint relates to a 30 second advertisement from Foxtel's 'All in one place' campaign (the Advertisement). The campaign was developed to drive awareness of the breadth of Foxtel's range of content – sports, movies, entertainment, drama – all in one place.

The Advertisement celebrates the return of the NRL following its suspension due to COVID-19 and opens on a close up of Dad. As the camera slowly pulls out, we see that he is in a footy stadium with another family huddled together on tiered seating. Players run past the camera. As the camera pulls out further, the environment slowly morphs, walls float in and furniture appears. The footy in front of them has disappeared and we find ourselves in a cosy living room with a television in front of the two families. The concept underpinning this Advertisement from the campaign is,



'your home, your stadium', and is based around Foxtel being able to turn your living room into a stadium so you don't miss out on any of the action.

The Advertisement was created and produced internally by Foxtel. The Advertisement was scheduled for broadcast on the Foxtel platform, free-to-air, online video, Facebook, Instagram and audio versions for radio and podcast between 4 March 2020 and 1 August 2020. The Advertisement was approved by ClearAds for broadcast on free-to-air channels and was assigned a "G" placement code.

The Complaint

The Complaint includes the allegation that the Nan's line, "My kidneys have got bigger stones than him", (Phrase) in the Advertisement is an example of toxic masculinity and promotes "a culture of men not being deemed masculine if they do not have large testicles".

Applicable provisions of the AANA Code of Ethics

Section 2.1

Ad Standards has raised Section 2.1 of the Australian Association of National Advertisers Code of Ethics (the Code) as the applicable provision in the context of the Complaint. Section 2.1 requires that:

"Advertising or Marketing Communications shall not portray people 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."

Referring to the AANA Code of Ethics Practice Note, Foxtel does not consider that the content of the Advertisement falls within the stated guidelines as to the definitions of "discrimination" and "vilification". The guidelines refer to behaviour that is "unfair or less favourable" and "humiliates, intimidates, incites hatred, contempt or ridicule", and it is Foxtel's view that in no way does the Advertisement create an overall negative impression of, nor discriminate or vilify a person or section of the community based on their gender.

The tone of the Advertisement is light-hearted and humorous and intended to highlight the excitement about the return of the NRL. Foxtel does not consider that the use of the Phrase depicts unfair or less favourable treatment of men nor is it likely to humiliate or incite ridicule of the unknown player or men in general. Foxtel submits that the Advertisement does not make any disparaging, derogatory or demeaning comments in reference to men, nor are men portrayed in a negative manner. Further, Foxtel does not consider that the Phrase suggests that the player is less masculine due to any physical trait. The intention of the Phrase is merely to portray the passion and enthusiasm sports fans have for their team, using tongue in cheek humour to show Nan's competitive nature on game day. We also note that the Phrase is not the focus



of the Advertisement, rather the focus is the ability to enjoy all the action of an NRL game from your living room.

Foxtel notes Ad Standards previously dismissed a complaint made about the use of the “pinkie finger” sign in the context of the RTA’s anti-speeding campaign, “Speeding. No one thinks big of you”. Ad Standards noted the complainant’s concerns that the advertisement was demeaning by using the pinkie finger to insinuate that young men are behaving in such a manner to make up for their perceived lack of maleness, however, did not consider that this reference constituted discrimination or vilification of men (case number 214/07). Ad Standards did not consider that a complainant’s concerns that an advertisement for Red Rooster suggested that men with lower voices were more attractive and masculine presented a negative stereotype of men, dismissing the complaint (case number 0208-20).

For the above reasons, we submit that the Advertisement does not depict material that discriminates against or vilifies any person or section of the community and therefore does not breach Section 2.1 of the Code. Further, we submit that the Advertisement does not breach any other provision of the Code.

Foxtel takes the Complaint very seriously and regrets any offence caused to the complainant or anyone else.

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 concern that the advertisement depicts an example of toxic masculinity.

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 complainant’s concern that the advertisement depicts an example of toxic masculinity by suggesting that the footballer is less of a man or is weak.

The Panel considered that the concept of toxic masculinity is an issue of current concern in the community, and noted that it must adjudicate complaints within the provisions of the Code.



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

“Discrimination – unfair or less favourable treatment.

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

The Panel noted that the game being played is an NRL game, based on the team merchandise that the family is wearing (Sydney Rabbitohs and Brisbane Broncos). The Panel noted that the main NRL code broadcast on television is first-grade, and that NRL games at this level feature all-male teams. The Panel considered that therefore any comments made about players are inherently about one gender.

The Panel noted the advertiser’s response that the promotion is related to the return of the NRL competition and the Panel considered that comments about players or the team as a whole are related to the game itself and the performance of the players/team, rather than being directed at a person as a result of their gender.

The Panel considered that while examples of spectators expressing frustration or disappointment at the performance of individual players or their team as a whole, such as the comment by the grandmother, are not encouraged, historically such comments are not uncommon in sports. The Panel noted that the woman’s behaviour is not condoned by her family, evidenced by the man saying “Oh Nan” and shaking his head.

The Panel noted that the concept of “having no balls” is colloquially used to suggest that a person is afraid or timid or has no self-respect.

However, the Panel considered that while some viewers would consider that the older woman’s comment about her kidneys having “bigger stones than than him” was related to the player’s masculinity, it would also be understood to be an impassioned comment relating to his perceived playing skill and the Panel did not consider that it reached the threshold set in the code.

The Panel considered that most members of the community would consider this phrase to be related to either a mistake or a poor execution of skills in a specific play of the game by the unseen NRL player and not a reaction which suggests that the man or all men are receiving unfair or less favourable treatment because of their gender, especially in the context of the humorous tone of the advertisement.

The Panel considered that the advertisement does not humiliate, intimidate or incite hatred, contempt or ridicule of the unseen man or men in general on account of gender.

The Panel noted the depiction of the older woman in the advertisement and considered whether her presentation was a breach of the Code.



The Panel considered that the woman is shown in a negative light in that she is depicted sledging a player on screen, but considered that her behaviour is intended to be humorous and there is no suggestion that her behaviour is due to her age or that suggests all people in a particular age group would behave in this manner.

The Panel considered that the advertisement does not humiliate, intimidate or incite hatred, contempt or ridicule of the woman on account of her age.

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 or age and determined that the advertisement did not breach Section 2.1 of the Code

The Panel considered whether the advertisement complied with Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Panel noted that the advertisement begins with a suggestion that a man is at a football game with many other people, and considered that this may not be consistent with current community guidelines relating to social distancing. The Panel further noted that the man is then depicted in a living room with eight other people which also may not be consistent with current community guidelines relating to social distancing.

The Panel acknowledged that current community standards around health and safety are that people should physically distance from others and should not interact closely with or touch other people who are not in their household.

The Panel considered that advertisements set since the start of the pandemic which show people interacting in a manner which indicates that they know each other, and which do not contain a call-to-action which is against current health recommendation, would be unlikely to be seen by most members of the community to be against prevailing community standards on health and safety.

The Panel considered that it quickly becomes clear that the man is not at a football game but rather is in his living room with his family. The Panel considered that the advertisement did not contain any messaging or call to action which would encourage people to behave in a manner contrary to current health and safety recommendations.

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

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