



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0255-20
2. Advertiser :	SOJO Pty Ltd
3. Product :	Toiletries
4. Type of Advertisement/Media :	TV - Pay
5. Date of Determination	26-Aug-2020
6. DETERMINATION :	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This Pay TV advertisement for Tradies deodorant depicts two men in a bathtub, one wearing a shower cap. One of the men washes his hair as the other pulls a boombox out of the water.

THE COMPLAINT

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

If some general public idiot decided to copy this, there is a very real chance that they would electrocute both of them - killing them both!!!

THE ADVERTISER'S RESPONSE

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

As an advertiser we have no intention of offending the viewing public. In fact our aim is to entertain and leave the viewer with a smile using Australian humour and the



"Iarrikinisms" which our ambassadors Nick 'Honey Badger' Cummins and The Inspired Unemployed in particular are well known and loved for by Australians. In saying this we will never make every member of the general public happy or comfortable with his persona and profile.

*For the general information of the standards board our target audience is:
Primary: Mum's who do the body wash purchasing for their families at the supermarket. We want them to see the brand as a great Australian brand for their families which is good quality and fun.
Secondary; Australian families -in particular males aged 18-26 who need to relate to the brand as something they would use.*

Please note we've made the same type of humorous adverts for the past 5 years and we have had no issues. Past adverts include;

Year 1 Advert

<https://www.youtube.com/watch?v=TZJU1YfLtHI>

Year 2 Advert

<https://www.youtube.com/watch?v=le7yQ5I8UI>

Year 3 Advert

<https://www.youtube.com/watch?v=zsfxk-XeBWQ>

<https://www.youtube.com/watch?v=fN7S4PLQZC0>

Year 4 Advert

<https://www.youtube.com/watch?v=qEK4v18EfUM>

<https://www.youtube.com/watch?v=29ocHal4CjQ>

<https://www.youtube.com/watch?v=8YLuj8auKIA>

Our advertising scripts go through testing with target audience as part of our script writing process. Once produced to ensure that our TV Cs hit the mark our advertising agency holds qualitative research to get feedback on the response of the ads. We have received virtually hundreds of posts and feedback on the likability of our ads and the characters of The Inspired Unemployed.

I hope the Ad Standard review finds in the positive for our advertising and I look forward to your correspondence.

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 depicts unsafe behaviour by showing an electrical device in a bathtub



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

The Panel noted that this advertisement had received complaints when broadcast on free-to-air television and that complaints in that case raised issues concerning sex, sexuality and nudity. The Panel considered Section 2.4 of the Code in the current case for completeness.

The Panel first 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 noted that the two men in the advertisement were depicted in a bathtub, however considered that there is no sexual contact between the two men and no suggestion that the bath is a prelude to sexual relations. The Panel considered that there is a brief moment of possible sexual suggestion when one man reaches under the water but this is quickly resolved when he pulls out a music player from under the water and it is clear the motion was not sexual.

The Panel considered that there is no depiction of sexually stimulating or suggestive behaviour in the advertisement, and that there was no sex in the advertisement.

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 noted that the two men in the advertisement were depicted in a bathtub, but considered that there is no indication that this is a sexual endeavour. However, the Panel considered that most members of the community would find two adults sharing a bath to be sexualised.

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 the Code is intended for the Panel to consider



the concept of nudity, and that partial nudity is factor when considering whether an advertisement treats nudity with sensitivity to the relevant audience.

The Panel considered that the men were shown in a bathtub and their chests are bare. The Panel considered that some members of the community would consider an image of men with unclothed chests to be a depiction of partial nudity. The Panel noted that while there may be a suggestion that the men are naked, due to their being in a bathtub, this is not clear in the advertisement.

The Panel then considered whether the issues of 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 is relevant to the Panel considering how children, and other sections of the community, might consider the advertisement.

The Panel noted that this advertisement was broadcast on Pay TV and considered the relevant audience would therefore be broad and may include children.

The Panel considered broad concerns that the advertisement contains homosexual innuendo and is offensive.

The Panel considered that advertisers are free to use whoever they would like in their advertisements, so long as there was not a depiction which breached any provision of the Code. The Panel considered that an allusion to, or depiction of, homosexuality in itself does not breach any provision of the Code so long as that depiction treats the issues of sex, sexuality and nudity with sensitivity to the relevant audience.

The Panel noted that the concept of sharing a bathtub is not uncommon to children, and considered that many children share bathing facilities with their parents or siblings and do not find such behaviour to be sexualised.

The Panel considered that the men in the bathtub are smiling, and one washes his hair faster in accordance with the music being played. The Panel considered that while some members of the community may find two adults sharing a bath to be sexualised of itself, the actual depiction of the men and their behaviour is not explicit or strongly suggestive of sexualised behaviour. The Panel considered that the



depiction of the men in the advertisement did treat the issue of sexuality and nudity with sensitivity to the relevant broad audience that may include children.

The Panel determined the advertisement did not breach Section 2.4 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 complainant’s concerns that the depiction of an electrical product in a bathtub is dangerous and this action may be copied.

The Panel noted that safety around electrical appliances is an important public safety issue.

The Panel noted that the product depicted is a ghetto blaster, a music player common in the 1980’s. The Panel noted that this product is battery operated and using it in a bathtub may result in injury, but not death. However the Panel considered that this is contextual cultural knowledge and considered that many people, particularly children, would not know this.

The Panel considered that the depiction of a person placing or retrieving an electrical appliance in water is a depiction of behaviour that is unsafe – regardless that the depicted music player is operating on battery power. The Panel considered that although the advertisement is unrealistic, the depiction of a person using an electrical appliance in the bathtub is the focus of the advertisement.

The Panel noted that the image of the man in the bathtub using the equipment is the focus of the advertisement and there is no indication or suggestion that such behaviour is potentially unsafe. Although the use of a ghetto blaster, which is not plugged in, in a bathtub may not itself be dangerous, the Panel considered that the depiction of the use of such equipment in water undermines public messages about safe use of electrical appliances around water.

In the Panel’s view the use of electrical equipment in and around water is unsafe and there is significant effort made in the community to educate people about such dangers. The Panel determined that the depiction of behaviour which is contrary to clear public safety messaging is contrary to prevailing community standards on safety.

The Panel determined that the advertisement depicted material contrary to prevailing community standards on health and safety and breached Section 2.6 of the Code.

Finding that the advertisement did breach Section 2.6 of the Code, the Panel upheld the complaint.



THE ADVERTISER'S RESPONSE TO DETERMINATION

Whilst we're disappointed the complaints concerning this advertisement were upheld in relation to the boombox given it was battery operated we're very glad the complaints citing two men in a bath and individuals sexuality were dismissed. We accept the Panel's findings and will discontinue use of this advert immediately.