



**Ad Standards** Community Panel  
PO Box 5110, Braddon ACT 2612  
P (02) 6173 1500 | F (02) 6262 9833

**AdStandards.com.au**

Ad Standards Limited  
ACN 084 452 666

## Case Report

<b>1. Case Number :</b>	<b>0264-20</b>
<b>2. Advertiser :</b>	<b>The Oodie</b>
<b>3. Product :</b>	<b>Clothing</b>
<b>4. Type of Advertisement/Media :</b>	<b>Internet</b>
<b>5. Date of Determination</b>	<b>9-Sep-2020</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

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

### DESCRIPTION OF ADVERTISEMENT

The internet advertisement is 3 minutes long and features a man lying down receiving a massage from two men dressed as sheep. This man continues through other scenes speaking to camera.

Voiceover: If the idea of being softly massaged by two muscular sheep doesn't do it for you, sure, skip your life away. But, what if you could have soft woolly goodness 24 hours a day.

A man wearing an Oodie during a job interview. The interviewer states "Well, I like your relaxed attitude. You're hired." The announcer is shirtless in this scene and says "I'm talking about a cosy blanket that's suitable for every single occasion. Like, this".

The scene changes to a man sitting and wearing the Oodie. The announcer says "Meet, the Oodie". The sitting man waves and say "Hi". The announcer says "No, not, not you, the blanket. But what does putting on the Oodie feel like?"

There is a close up of the product.

The sitting man says " Oh it's like blowing a raspberry on a koala's tummy. Let me demonstrate".

The next scene depicts a man in a koala costume lying down. The sitting man says "Wait, what's this?" The announcer answers "It's a small budget mate".



The man dressed as a koala says “Bro, I drove all this way, is this happening?” The sitting man looks uncomfortable and the announcer leaves, saying “Well, I know where I’m not wanted. Enjoy”.

“See the Oodie is a hoodie but its bloody massive, and why is it known as Australia’s favourite wearable blanket? Well” He clicks his fingers and is suddenly wearing an Oodie. “The secret lies in how it’s made. A cruelty free, an itch free Sherpa fleece. It’s incredibly spacious”. The announcer is now depicted under an Oodie. “It’s like being smothered by a million tiny hamsters.”

A faceless man is depicted wearing the Oodie with the hood over his head and speaking in a muffled voice. Text on screen states “It’s like lying on a bed of Corgi bottoms. It’s kind of like it’s just...” Lullaby music is heard and the man falls over.

The announcer holds a microphone and approaches a woman sitting on a couch wearing a pink Oodie and reading a magazine. He asks her “So why should you get yourself an Oodie?” A timer appears on screen giving her 5 seconds to answer. She says “Ah, because it’s good to be cosy at home?”. The announcer replies “Well yeah, but the Oodie also comes with 100% cosy guarantee.”

The scene shows the announcer lying down in bed holding a rose with rose petals around him. He says “So if you’re not digging the idea of being swaddled in a blanket softer than love itself...” The scene changes to show the announcer walking through an area and a woman in yellow holding a clip board for him. He continues “you can return your order with a full refund. Zero hassle. Or, you can keep a regulated temperature with Oodie’s smart comfort design. Layered to perfection.” The woman in yellow repeats “Layered to perfection”. The announcer thanks her.

The scene changes to man sitting on a yellow chair opening the product. The announcer and the woman in yellow enter the room and ask him what is sitting on his side table. He replies that it is a thermostat. The announcer tells him that he won’t be needing that and throws it away.

The scene changes back to the woman in a pink Oodie. She looks directly into the camera, and asks "Hang on, what if my Oodie is accidentally worn by my cousin Steven who thinks garlic is the answer to everything?" As she speaks the camera switches to a man standing in a kitchen. He is wearing an Oodie which features images of garlic bread as the design, and is wearing an apron over the top. The shot shifts its focus from the man onto a plate of crushed garlic. In this shot you can also see a plate of garlic bread, as well as whole garlic cloves scattered over the benchtop. The man is then seen grabbing one of the whole garlic cloves from the benchtop and sniffing it. After he has sniffed the garlic, he turns his attention to the camera and says the following words in Italian: "Molto bene."

The announcer says “No worries, the Oodie is machine washable and it won't lose its softness either.” The scene changes to a family in a living room, all wearing oodies. The announcer continues “We had to make the Oodie life proof. For families, teens,



tweens and everything in between. Whether it's camping, hiking, or playing hide and seek. Really I could keep going on, but you can just read all the reviews."

The scene changes to a woman sitting in a chair and many reviews appearing on screen in boxes. She says "All of them? But there's over 500 five star reviews." The announcer says "Exactly, making Oodie the number one brand of oversize comfort wear according to Trustpilot." The announcer is shown sitting down with the family and saying that the product is a perfect gift for the whole family. The looks around at the family and they all laugh together. The father then tells the announcer he can leave now.

### **THE COMPLAINT**

Comments which the complainant/s made regarding this advertisement included the following:

*A racist ad that perpetuates negative stereotypes about people of Southern or Eastern European/Mediterranean ancestry. A character named 'cousin Steve' (a common name in these cultures, name of my relatives), who is olive-skinned (potentially artificially made to look darker), dark-haired (as before and greased), and strong-featured (the camera angles and actor's gesticulations exaggerate the prominent facial features, such as the nose- a classic trope), is shown wearing the gown while sniffing and eating vast quantities of garlic (on its own and on bread) in a vulgar manner, while mock traditional cultural music plays in the background. The ad suggests that if the garment were to be worn during such activities, the resultant odour could now be removed through machine-washing. A disgusting portrayal that belongs to the era during which racial slurs such as 'wog', 'daego', 'salami/garlic-breath' were common. Another racist example might be an Indian equivalent, suggesting that the smell of curry would render the gown unwearable. The character might be dressed in traditional garb with traditional music playing. This would also be unacceptable. Perhaps the company didn't consider this ad racist because it doesn't portray people of colour, however European migrants were the subject of racial vilification in the past and are often considered second-class citizens to Northern and Western Europeans (Anglo-Saxons etc.).*

### **THE ADVERTISER'S RESPONSE**

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

1. *We refer to your letter dated 26 August 2020 addressed to the advertiser regarding a complaint received by Ad Standards on 17 August 2020 (the Complaint) in respect of an advertisement appearing on YouTube for a product known as "The Oodie" (the Advertisement), which is sold through the advertiser's company Davie Clothing Pty Ltd.*
2. *On instructions from Mr Fogarty, we provide this response to the matters raised in your letter.*

*Background*



3. *The product known as the "Oodie", and which forms the subject of the Advertisement, was first developed by Mr Fogarty in or around 2018 and is best described as a wearable blanket with a hood. The Oodie is available in a series of colourful prints, and is marketed as a quality product that does not take itself too seriously. Accordingly, advertisements for the Oodie regularly utilise humour.*
4. *Notwithstanding this, our client takes its legal and governance obligations extremely seriously and believes that all of its activities, including the advertising of the Oodie, comply with all relevant standards.*
5. *Our client would never engage in or authorise conduct which constituted racial discrimination or vilification. That was certainly not the purpose of or brief for the Advertisement.*

#### *The Advertisement*

6. *The Advertisement is a short video posted to YouTube entitled "The Oodie - Oversized Awesomeness" which lasts for 3 minutes and 4 seconds. We understand the Advertisement to which the Complaint relates appears at the following link: <https://www.youtube.com/watch?v=y9f54imG8CE&t=1s>*
7. *The Advertisement is one of a series of short, humorous video advertisements posted to YouTube for the purpose of highlighting how comfortable an "Oodie" is to wear. The Advertisement is targeted at adults, not children.*
8. *People are required to opt-in to view the Advertisement online. The Advertisement does not appear on free to air TV or on a static billboards or in other formats.*
9. *As the Advertisement is not a television commercial, there is no CAD classification number.*
10. *A digital copy of an example of the Advertisement accompanies this letter.*

#### *Response to Complaint*

- 11 *The Complaint lodged in respect of the Advertisement appears to primarily relate to a scene commencing at 2 minutes and 7 seconds, and concluding at 2 minutes and 19 seconds.*
12. *The camera focusses on a woman sitting on a couch drinking out of a mug. She looks directly into the camera, and states the following words:  
"Hang on, what if my Oodie is accidentally worn by my cousin Steven –*
13. *At this point, the camera then switches to a man standing in a kitchen. He is wearing an Oodie which features images of garlic bread as the design, and is wearing an apron over the top.*



14. *At the same time, a female voiceover is continued and played against an audio track of Italian music:*

*"- who thinks garlic is the answer to everything?"*

15. *During this voiceover, the shot shifts its focus from the man onto a plate of crushed garlic. In this shot you can also see a plate of garlic bread, as well as whole garlic cloves scattered over the benchtop. The man is then seen grabbing one of the whole garlic cloves from the benchtop and sniffing it. After he has sniffed the garlic, he turns his attention to the camera and states the following words in Italian:*

*"Molto bene."*

*"Molto bene" translates to "very good" in English.*

*(collectively the Relevant Scene).*

16. *The Relevant Scene only lasts for approximately 10 seconds in an Advertisement that has a total duration of 3 minutes and four seconds. It is not the opening or closing scene. It is merely an incidental scene and does not receive prominence over any other part of the Advertisement.*

17. *At the end of the Relevant Scene, the Advertisement talks about how the garment can be washed. As such, the purpose of the segment is to simply convey the message that the garment is washable.*

18. *Neither the Relevant Scene nor any other part of the Advertisement contains offensive or inappropriate material.*

#### *AANA Code of Ethics*

19. *We have had regard to all of the relevant advertising standards and, in particular, the AANA Code of Ethics (Code). It is respectfully submitted that the Advertisement does not breach any of the relevant standards.*

20. *As you have identified specific provisions of the Code as having relevance to the complaints, we deal with each of those provisions in turn.*

#### *Section 2.1 - Discrimination or Vilification*

21. *This section prohibits advertising from portraying people or depicting 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".*

22. *The Advertisement does not contain any material which could be said to constitute discrimination or vilification.*

23. *The Advertisement (and, in particular, the Relevant Scene) is light-hearted, and would be received and understood in that way.*

24. *The Complaint misstates the features of the Relevant Scene, eg:  
(a) the character's name is Steven not Steve;*



- (b) the character is relatively light-skinned and is certainly not artificially made to look darker;*
- (c) the character's hair is not greased;*
- (d) the character is not "shown eating large quantities of garlic in a vulgar manner".*

25. *The character is not depicted negatively. He is not portrayed as dirty or as otherwise worthy of vilification. The focus of the scene is the scent of garlic which needs to be washed out of the garment.*

26. *The intention was not to ridicule people of a Mediterranean background and this is not how reasonable viewers would react to the Relevant Scene. The character was simply a device to convey the message that the garment is washable. This was done in a light-hearted manner by selecting a food which might lead to the garment requiring washing. It is not discriminatory to a race to suggest that a particular type of food may possess a strong scent which could linger on items of clothing.*

27. *Under the Code, it is accepted that stereotypes may be used to simplify the process of communication in relation to both the product offered and the intended consumer.*

28. *Further, the Practice Notes to the Code acknowledge that advertisements can humorously suggest stereotypical aspects of an ethnic group or gender, provided the overall impression of the advertisement does not convey a negative impression of people of that group.*

29. *In addition, we note that there have been determinations by Ad Standards in recent years which have accepted that a stereotypical portrayal of other cultures or races was not necessarily sufficient grounds of itself to make findings against an advertisement - particularly in circumstances where the portrayal was perceived as being "light-hearted" and it was not intended to be negative or demeaning towards a particular culture or race.*

30. *By way of example, in Case Number 0314/18, the portrayal of Mediterranean people was 'a satire of Australian stereotypes, and that these stereotypes were humorous and not discriminatory or vilifying of any person or group of people.' It was accepted that some people might find portrayals of other races in poor taste, but this wasn't a sufficient ground for making a finding against this advertisement.*

31. *Additionally, in Case Number 0126/17, Ad Standards dismissed a complaint in relation to a white man dressed in a Chinese costume pretending to have a Chinese accent. Ad Standards found that "it is not of itself discriminatory or vilifying to depict a person dressed in clothing specific to a particular culture or nationality" and considered that "the advertisement is clearly presenting a man dressing up and being "silly." The Board noted that the advertisement was intended to be light-hearted and humorous. It was considered that the manner in which the Caucasian man played the role of a Chinese Master was not negative or demeaning and there was nothing in the*



*advertisement that suggested Chinese people and/or their culture were being mocked or ridiculed.*

32. *We trust the Community Panel will adopt a consistent approach and accept that, while the individual complainant might find the Relevant Scene to be in poor taste, there is nothing negative or demeaning which would justify a finding of breach.*

33. *In all the circumstances, it is submitted that the Relevant Scene does not offend Prevailing Community Standards.*

34. *For the reasons set out above, the Advertisement is fully compliant with this section.*

#### *Section 2.2 - Exploitative or Degrading*

35. *This section prohibits advertising from employing sexual appeal where images of minors are used, or in a manner which is exploitative or degrading of any individual or group of people.*

36. *In this respect, the AANA Practice Note states that:*  
*(a) exploitative means clearly appearing to purposefully debase or abuse a person, or group of persons, for the enjoyment of others, and lacking moral, artistic or other values; and*  
*(b) degrading means lowering in character or quality a person or group of persons.*

37. *The Advertisement is not exploitative or degrading in any sense, and so is fully compliant with this section.*

#### *Section 2.3 - Violence*

38. *This section prohibits advertising from presenting or portraying violence unless it is justifiable in the context of the product or service advertised.*

39. *The Advertisement does not contain any violence or menace of any kind and so is fully compliant with this section.*

#### *Section 2.4 - Sex, sexuality and nudity*

40. *This section requires advertising to treat sex, sexuality and nudity with sensitivity to the relevant audience.*

41. *The Advertisement does not contain any scenes relating to sex, sexuality or nudity of any kind and so is fully compliant with this section.*

#### *Section 2.5 - Language*

42. *This section requires advertising to only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium) and to avoid strong or obscene language.*



43. *The Advertisement does not contain any inappropriate language. The Advertisement is fully compliant with this section.*

*Section 2.6 - Health and Safety*

44. *This section prohibits advertising from depicting material contrary to Prevailing Community Standards on health and safety.*

45. *The Advertisement does not contain any unhealthy or unsafe practices, images or themes. The Complaint does not raise any concerns about health and safety.*

46. *The Advertisement is fully compliant with this section.*

*Section 2.7 - Distinguishable as advertising*

47. *This section requires advertising to be clearly distinguishable as advertising to the relevant audience.*

48. *The Advertisement is prominently branded as an advertisement for the "Oodie". There is no reasonable prospect of the Advertisement being confused with other content and we note that the Complaint does not suggest that any confusion has arisen.*

49. *The Advertisement is fully compliant with this section.*

*Other concerns*

50. *We do not understand there to be any suggestion of concerns arising in respect of any other part of the Code or other applicable standards.*

*Next steps*

51. *We trust this letter addresses all of the issues which need to be addressed in this matter. If further responses or information would assist the Panel, please let us know.*

52. *On the grounds outlined in this letter, we respectfully submit the Complaint should be dismissed.*

53. *We look forward to your determination.*

**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 racist and perpetuates negative stereotypes about people of European/Mediterranean ancestry.

The Panel viewed the advertisements 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.*

*Ethnicity– those with a common social identity as a result of customs, traditions or belief about historical origins"*

The Panel noted the advertiser's response that the scene of concern is light-hearted, and the character is not depicted negatively.

The Panel noted the scene of concern which features a character known as Steve who is depicted speaking Italian. The Panel noted that he is seen putting garlic on food and that his cousin makes a comment about him putting garlic on everything.

The Panel noted that there is an existing stereotype of some European cultures using large amounts of garlic in their cooking. The Panel considered that in some contexts this stereotype may be used in a negative manner. However, the Panel considered that in this advertisement the character of Steve was not shown in a way which would portray his ethnicity in a negative light.

The Panel considered that the woman's concern is about the smell of garlic sticking to clothing and is not related to the ethnicity of her cousin.

The Panel considered that Steve was not seen to receive unfair or less favourable treatment in the advertisement and was not depicted in a manner which humiliates him or incites contempt or ridicule of him on the basis of his ethnicity.

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 ethnicity 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 2.4 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 advertisement contained 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 does not contain sexually stimulating or suggestive behaviour and does not contain sex.

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 by itself a depiction of sexuality.

The Panel noted that there was no explicit sexual content in the advertisement. The Panel noted that two scenes included a person interacting with other people in animal costumes: two men dressed as sheep giving a massage to a man, and man in a koala costume waiting for another man to blow a raspberry on his tummy. The Panel considered both scenes were visual metaphors for the softness of the product and were not sexual in nature.

The Panel noted that in one scene the presenter is lying down in bed holding a rose with rose petals all around him. The Panel considered that this scene was again in the context of referring to how soft the product is and was not a depiction of or emphasis on sexual matters.

The Panel considered that the advertisement does not 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 noted that all characters portrayed in the advertisement are clothed and there is no focus on body parts. The Panel considered that the advertisement does not contain nudity.

Finding that the advertisement did not contain sex, sexuality or nudity the Panel 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 complaint.