



Case Report

1	Case Number	0266/12
2	Advertiser	Reckitt Benckiser (Aust) Pty Ltd
3	Product	Toiletries
4	Type of Advertisement / media	TV
5	Date of Determination	11/07/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The advertisement opens in a hallway and moves to a bedroom where we can hear the noise of a creaky bed. The top of a man is seen over the top of the back of the bed. As we get closer, we can see that the man is using Durex Massage 2 in 1 gel to assist in massaging his partner's back. The man is dressed in boxer shorts, whilst his partner is featured lying on her stomach, with her lower half covered with a sheet. The man pauses in his massage and uses the gel to quieten the creaking bed, before resuming. The Advertisement closes with a Product shot.

THE COMPLAINT

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

The ad was the first to be shown at the end of the second last program of the Voice which has a very large audience including all ages. Many families would have been watching the program and the placement of the ad would have meant that many children will no doubt have seen the ad.

The ad is inappropriate for television but in this particular case was certainly inappropriate timing.

There is ample research showing that the majority of women do not like the sexual activity that was depicted in the ad. Naturally consenting adults can engage in activities as they see fit but in this case the viewer has no choice. It is offensive not to be given the choice.

It was suggestive and had a certain amount of nudity e.g. the woman was lying on her stomach back exposed and her partner started to pull the sheet down past her buttock you couldn't see her buttock just the top but it was very suggestive and inappropriate for TV. The entire ad was very inappropriate for TV especially shown during a show that is investigating sexual crimes against people.

It was during Law and Order 9pm and 9:30pm shows.

I am writing to you about an advertisement you are playing about Durex lubricant. I find this disgusting as is the genie longer ad. We do not need these sexually provocative ads on our TV. Please remove them.

THE ADVERTISER'S RESPONSE

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

I refer to your letter of 20 June 2012 regarding a complaint received from a member of the public concerning Reckitt Benckiser (Australia) Pty Limited's (RB's) Durex Play Massage 2in1 Gel (Advertisement). Thank you for the opportunity to comment on the issues raised in the complaint.

Complaints

The complaints raise a number of concerns (Issues), which can be grouped as follows:

- 1. that the Advertisement aired in "inappropriate timing"*
- 2. that the Advertisement is variously: "disgusting", "sexually provocative", "suggestive" or "highly suggestive of sexual activity" and that the couple depicted are "almost naked";*
- 3. that the Product is "in the shape of a penis"; and*
- 4. that "the majority of women do not like the sexual activity that was depicted in the [Advertisement]"*.

Submission

RB takes complaints about our advertising seriously. In making our submission, RB has considered the entirety of section 2 of the AANA Advertiser Code of Ethics (the Code). 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".

RB submits that it complies in all respects with the letter and spirit, not only of section 2.4, but of the Code as a whole. I deal with each Issue in more detail below.

Issue 1

This issue is directed at the programming for the Advertisement.

The Media Plan for the Advertisement programmed the Advertisement to be broadcast in timeslots and programs in compliance with its M rating.

So far as the specific programs referred to in the complaints, The Voice was not included in the Media Plan as its viewers did not fit the target audience for the Product. RB contacted the Nine Network to ascertain whether the Advertisement had inadvertently aired in contravention of the Media Plan and received confirmation that the Advertisement was aired at 11:03pm on Monday 11 June 2012 on the Nine Network during the program Footy

Classified, which followed the semi final of The Voice. A copy of Nine Network's Post Report for the Advertisement is attached.

So far as the complaint in relation to the screening of the Advertisement during Law and Order: SVU, RB submits that the relevant audience of such a program is a mature one which is unlikely to be shocked, outraged or offended by the Advertisement.

At all times, the Advertisement treated sex, sexuality and nudity with sensitivity to the target audience of programs in its Media Plan, including Footy Classified and Law and Order: SVU. While some viewers may prefer that the Advertisement not be shown, we submit that the Advertisement is very mild and that most viewers of such programs would not find it offensive or inappropriate. We therefore submit that this aspect of the complaints should be dismissed

Issue 2

Issue 2 is directed at the way sex, sexuality and nudity are treated in the Advertisement. RB submits that there are a wide range of attitudes to the treatment of "sex, sexuality and nudity" among the community. The Advertisement features a discreet portrayal of nudity and sexuality in a context which is wholly appropriate for the Product. In all representations, both actors' genitalia are covered. Furthermore, the poses adopted by the models are relatively conservative and, in the case of the female actor, is relaxed and sensual without being explicit, pornographic or titillating. The use of imagery in the Advertisement does not constitute gratuitous nudity or sex to convey its message, especially in light of its relevance to the Product.

The tone of the Advertisement and the campaign is characteristic of the cheeky sense of humour that has long been used to advertise Durex products. RB's intention, as with all of our advertising, is to engage our target audience with sensitivity and humour. The humour arising from the audience finding out that the creaking bed is being caused by the massage and the subsequent use of the Product to remedy it is not explicit and, at its highest, is merely suggestive. Indeed, we submit that the suggestiveness displayed in the advertisement is a milder form of innuendo that that complained of in case number 0151/12 (in which it was openly stated that one of the female actors was "porking the postman" in a PG rated and programmed ad) and which the Board recently dismissed on the basis that the sexual connotation was mild and unlikely to be understood by children.

To the extent that any children would be viewing the Advertisement during the programs during which it aired, it is unlikely that they would understand the sub-text behind the creaking bed. RB submits that the images and words are merely suggestive and do not treat sex or sexuality other than with sensitivity and gentle, cheeky humour. While not every person viewing the Advertisement may like it or think it appropriate, RB submits that, in the context of the prevailing community standards, the majority of people in M classified timeslots would not find it offensive or inappropriate. RB submits that whilst some people, as in the case of the complainants, may consider the advertising to be confronting, the message amounts to no more than a mild form of innuendo. We strongly submit that the Advertisement is not insensitive in the context of prevailing community standards and that this aspect of the complaints should be dismissed.

Issue 3

Issue 3 relates to the contoured shape of the Product and, as such, 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 the contoured shape serves a practical purpose and is no more than mildly suggestive and that 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 4

Issue 4 appears to be unrelated to the Advertisement and in no way supported by evidence. The female actor depicted is receiving a back massage from her partner. At no time does the Advertisement depict any activity, sexual or otherwise, that would be offensive to women. So far as the mild innuendo of the creaking bed in the opening scene is concerned, no particular sexual activity is shown or implied. Accordingly, in the absence of any sexual activity on which to base the complaint, this aspect of the complaints should be dismissed. 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 offensive and contains imagery that is 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 this advertisement depicts a bedroom scene firstly the audience can hear the noise of a creaky bed. The top of a man is seen over the end of the bed. The man is then shown using Durex Massage 2 in 1 gel to assist in massaging his partner's back. The man is dressed in boxer shorts, whilst his partner is featured lying on her stomach, with her lower half covered with a sheet. The man then uses the gel to quieten the creaking bed, before resuming the massage.

The Board considered that while the advertisement does depict some nakedness, it is fleeting and the nudity is very modest and does not expose any of the private areas of the actors. The Board considered that showing examples of activities that may take place in a bed or bedroom (including intimacy between consenting adults) is acceptable and relevant to the product being advertised and that this scene was short and relatively discrete.

The Board noted that the advertisement had been rated M by CAD and the media plan confirms that the advertisement was aired within appropriate timeslots. The Board considered that the content of the advertisement was not inappropriate for viewing by a mature audience.

The Board considered that most members of the community would find the content mildly sexually suggestive and not inappropriate.

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.