



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

1. Case Number :	0272-20
2. Advertiser :	Victorian Department of Health and Human Services
3. Product :	Community Awareness
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	23-Sep-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This television advertisement depicts actor Shane Jacobson working on a car wearing a mask. He speak to camera saying:
"You know, when I was a little tacker, they used to have an ad campaign for condoms, and they had a slogan which was, "If it;s not on, it's not on." Now, thank goodness my parents didn't follow that advice or I wouldn't be here today. But you know what, I am here today and I'd like to stay here. So I'm bringing the slogan back-if it's not on, it's not on. So whack one of your face. I'm talking about the-the mask of course, not the condoms, yeah? Cheers."

THE COMPLAINT

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

It's not an appropriate ad to be on when I'm watching TV with my children. I'm actually disgusted. Now my kids are asking me what condoms are.

*Find ad offensive, embarrassing, and inappropriately screened during prime time in front of young kids.
Fail to see humor in likening a mask to a condom.*



Why bring sexual connotations into it, surely a slogan such as "don't forget the mask" would suffice.

Shane Jacobson was comparing wearing a mask with wearing a condom. The first time in the evening that we saw this is when, as a family we were watching the channel 7 weather, at about 6.30pm ish.

My 8 year old and 11 year old's were both present. This is an INAPPROPRIATE TIME for this ad. Play the other ads (OF THE SAME - WEAR A MASK CONTENT) by other celebrities, and leave the Condom one to after 9pm. I AM CHALLENGING THE TIME SLOT.

THE ADVERTISER'S RESPONSE

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

Across the Victorian Government and the Victorian health system, teams are working around the clock to respond the Coronavirus disease (COVID-19) pandemic and keep the Victorian community safe.

As part of this response the Department of Health and Human Services lead the development public health information to ensure people know how to reduce their risk, stay healthy and safe, what actions to take and where to go to get the support and information they need.

We know that most Victorians are doing the right thing, wearing masks and following the Chief Health Officer Directions, however there are still people who are flouting the rules and putting the health and wellbeing of others at risk.

To tackle this, the Coronavirus (COVID-19) Herogram Campaign features eight short videos of prominent Victorian celebrities encouraging people to follow public health directions.

The Herogram campaign takes a new approach to delivering public health messaging in order to extend its reach into communities where message fatigue may be setting in.

The commercial that features comedian Shane Jacobson was designed to deliver public health messaging using comedic value to break down barriers and get people listening in an environment that is already saturated with evolving information.

Shane uses colloquial language and delivers important health messaging using a humorous tone in order to grab the viewer's attention and resonate with them on a personal level.



This commercial is part of a broader campaign of videos that are designed to appeal to a wide range of communities and demographics through direct and simple messages from respected and admired community heroes.

These videos are unscripted, in the words of the celebrities themselves and reaches out to an existing fanbase to get on board with looking after themselves and their communities.

Using Victorian voices and a very Victorian sense of humour, our ongoing advertising and communications efforts are aimed at reminding the community that we need to continue to look after ourselves and each other.

That means, precautions like wearing a mask, physically distancing and being on the lookout for symptoms and getting tested if they have even the slightest of symptoms. This is the message being delivered as part of our Herogram campaign.

In accordance with section 2 of the advertising codes:

2.1 Advertising or Marketing Communication 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.

This advertisement does not discriminate against any person or section of the community. It reaches out to all people and communities through humour to deliver an important public health message.

*2.2 Advertising or Marketing Communication shall not employ sexual appeal:
(a) where images of Minors, or people who appear to be Minors, are used; or
(b) in a manner which is exploitative or degrading of any individual or group of people.*

This advertisement does not feature any images of minors nor is it exploitative or degrading of any individual or group of people.

2.3 Advertising or Marketing Communication shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

There is no portrayal of violence in this advertisement.

2.4 Advertising or Marketing Communication shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The advertisement featuring Shane Jacobson uses his personal brand of humour to reach out to his audience base to deliver an important message about the importance of wearing face masks as a protection measure. The slogan referenced "If it's not on, it's not on" calls back to an advertising campaign about the use of condoms. Because of this reference, this ad received a PG rating during the CAD approvals process. As



such, this advertisement has only been shown during television shows with that same rating, a full list of times shown is provided in an attachment.

2.5 Advertising or Marketing Communication shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

No strong or obscene language is depicted in this advertisement. Due to the reference of condoms, this ad received a PG rating during the CAD approvals process. As such, this advertisement has only been shown during television shows with that same rating, a full list of times shown is provided in an attachment.

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

This advertisement outlines key public health protection measures based on the clinical advice and expertise of the Chief Health Officer. This is no way depicts material or messaging contrary to the Prevailing Community Standards on health and safety.

2.7 Advertising or Marketing Communication shall be clearly distinguishable as such to the relevant audience.

All Victorian Government advertising is required to display an authorisation tag in the closing frames of TV advertisement. This advertisement abides by this requirement noting that it is a message authorised by the Victorian Government.

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 complainants' concerns that the sexualised product of condoms is not appropriate to reference in advertising at a time at which it will be seen by children.

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

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 noted that the advertisement contains references to condoms and the actor stating that if his parents had used them he wouldn’t be here. The Panel considered that this is a reference to sexual intercourse and the advertisement did contain a reference to 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 the advertisement refers to condoms and that this is a recognition of sexual matters. The Panel considered that the advertisement did 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 Shane Jacobson was clothed and considered that the advertisement did not contain nudity.

The Panel then considered whether the issues of sex and sexuality 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’ 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 concept of how subtle sexual suggestion is or might be is relevant to the Panel considering how some sections of the community, such as children, might perceive the advertisement.

The Panel noted that advertisement had received a P rating from CAD meaning the advertisement “may be broadcast at any time of day, except during P and C programs or adjacent to P or C periods”. The Panel considered that the relevant audience would likely be broad and would include children.



The Panel noted that the advertisement references condoms and the actor states that if his parents had used them he wouldn't be here. The Panel considered that the advertisement does not detail what condoms are or in what situations they would be used. The Panel considered that the comments in the advertisement would likely only be understood by people already familiar with what condoms are, and would be unlikely to be understood by a younger audience.

The Panel acknowledged that some people viewing the advertisement with young children would be uncomfortable with the reference to condoms and the conversation this may prompt. However, the Panel considered that adults viewing the advertisement could choose what information to provide to their children, and that this advertisement did not contain sexually explicit information or references.

The Panel considered that the advertisement was conveying an important community awareness message, and that the mild sexual references in the advertisement were not inappropriate for the relevant broad audience.

The Panel determined the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant broad audience and 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 complaints.