



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0279-21
2. Advertiser :	Mars Wrigley Australia
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	13-Oct-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This television advertisement starts with an alarm clock radio on a bedside table along with a packet of chewing gum. The words "Sometime in the not too distant future" are superimposed over the screen. The radio announcer says, "We are back folks. We can see people again. Can you believe it?"

A woman wakes up on the floor surrounded by pizza boxes. Her phone buzzes and messages from someone called Alex appear on the screen. The messages say, "We can meet up NOW", "RIGHT NOW" and four drool face emoticons.

The woman rises up out of the pile of pizza boxes. She is then seen wandering around an outdoor park holding her phone where she sees a man wearing a dressing gown also holding his phone. She puts a piece of chewing gum in her mouth, and smiles so that her teeth sparkle and there is a ding noise. She and the man kiss, and the words "Get your ding back" appear on screen.

THE COMPLAINT

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

I don't think this is an appropriate ad for this time of day when young children are watching.



Offensive to my older parents, myself and grand children. Don't need to see this rubbish.

Inappropriate scenes kissing and jumping on each other the add has nothing to do with chewing gum instead shows a bunch of people jumping each other and is very inappropriate for my kids to watch, gives them a bad mentor.

Unnecessary sexualised behaviour displayed by couples simulating lovemaking with clothes on!!!

THE ADVERTISER'S RESPONSE

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

We refer to your letter dated 30 September 2021 providing us with a copy of a complaint (0279-21) (Complaint) received by Ad Standards regarding a Mars Wrigley Confectionary (Mars Wrigley) paid Television advertisement for Extra "When it's Time" (Advertisement).

Mars Wrigley values the work of Ad Standards in supporting compliance and best practice standards for the benefit of both consumers and our broader industry. Mars Wrigley appreciates the opportunity to respond to the Complaint regarding the classification of the advertisement and the subsequent airing of the commercial on FTA television in the timeslots noted in the complaint.

Specifically, in relation to the complaint:

Description of the advertisement

Ad promoting Extra Gum (product) with Extra "When It's Time" (the "When It's Time" TVC), stitched with ad promoting M&M's Crunchy Caramel (new product) tagged with M&M's Airplane TVC.

And our comprehensive comments/our P.O.V. in relation to the complaint (taking into account the need to address all aspects of the AANA Code of Ethics, Section 2, which also includes AANA Code for Advertising and Marketing Communications to Children and the AANA Food and Beverage Marketing Communications Code)

Mars contends that the Advertisement does not breach any section (including Section 2) of the AANA Advertiser Code of Ethics (the Code) which also covers the AANA Code for Advertising and Marketing Communications to Children and the AANA Code for Food and Beverages Marketing.

The AANA Code for Advertising and Marketing Communications to Children is not applicable in this context as the Advertisement is not directed at children.



This is in line with our commitments to not advertise to children under 12 as part of the Mars Marketing Code and as a signatory to the Responsible Children's Marketing Initiative.

The Advertisement complies with the AANA Code for Food and Beverages Marketing: there is no suggestion the Advertisement misrepresents the product, makes any health or nutrition claims, shows any unreasonably excessive consumption given the context of the Advertisement or is otherwise contrary to Prevailing Community Standards.

While the complaint primarily focuses on whether the "When It's Time" TVC is appropriate for its target audience, we would like to take this opportunity to highlight how the content of the TVC:

- Is not explicit;*
- Does not feature nudity;*
- Is humorous in nature;*
- Does not depict any underage persons; and*
- Does not discriminate or vilify any person depicted.*

2.1 - Discrimination or vilification

This section does not appear relevant to the Complaints or the content of the Advertisement. The Advertisement does not discriminate or vilify any person.

2.2 - Exploitative or degrading

This section does not appear relevant to the Complaints or the content of the Advertisement. The Advertisement does not depict individuals in a degrading or exploitative manner any individual or group of people.

2.3 – Violence

This section does not appear relevant to the Complaints or the content of the Advertisement. The Advertisement does not suggest violence towards any person.

2.4 - Sex, sexuality and nudity

The focus of the Advertisement is intended to be on the characters relishing in their newfound freedoms from COVID-19 related public movement restrictions; enjoying the product benefits of EXTRA gum to 'freshen up' before engaging with others. The nature of the Advertisement is hyperbolic and exaggerated showing various members of the community leaving their homes after extended lockdown, co-workers returning to their workplace and romantic couples reuniting en masse.

We understand that the complainants are concerned that scenes within the advertising containing couples engaging in passion are overly suggestive and explicit in nature, and inappropriate for younger audiences. We believe the below characteristics of the advertisement do not align with these claims;



- *The focus of the advertisement is not on sexual encounters, but more broadly on the exaggerated joy of freedom with the nature of interactions intended to be affectionate rather than intimate*
 - *The setting of the scene, being outdoors in broad daylight, with multiple couples suggests this is a humorous exaggeration of couples being able to reunite after a long period being separated*
 - *The majority of characters are fully dressed in loose fitting and non-sexually suggestive clothing. The wardrobes are reflective of lockdown loungewear, and have been selected to demonstrate the joy of being able to leave their residences, not to increase their sexual appeal*
 - *All characters are positioned upright, in exaggerated positions which are not sexually suggestive*
 - *All characters are mature aged and engaging in the embraces in a consensual manner*
 - *The characters movements are joyous in nature, and not overly sexual, or in sexual positions*
 - *The wide-angled framing of the scenes does not focus on any sexually suggestive body parts, clothing, movements etc.*
- We consider that any alleged sexual references are minor, and are sensitive to the intended audience which would be considered to be adults of a similar age group to the characters in the Advertisement. Please see below for further response in regards to the target audience.*

2.5 – Language

This section does not appear relevant to the Complaints or the content of the Advertisement. No inappropriate or obscene language is used in the Advertisement.

2.6 - Health and Safety

This section does not appear relevant to the Complaints or the content of the Advertisement. The Advertisement does not contain threats to health and safety.

2.7 - Distinguishable as advertising

This section does not appear relevant to the Complaints or the content of the Advertisement. It is clear that this piece of film is an advertisement for Extra.

Processes in place to control the target audience

The TVC has a CAD rating of 'W', which is the equivalent of 'G' but requires additional consideration when being placed in programs primarily directed to children. Mediacom's specific process follows the guidelines of the AANA food and beverages advertising code: as per the guidelines from November this year, the age of children as a definition, will be raised from 12 to 15.

Further to this, food and non-alcoholic beverage companies will only be able to show advertisements for occasional foods when the proportion is 25% or less of the total audience. We have a clearly defined internal process, starting with a viewing report of Total People and Children 15 and under, and determine the stations where the viewing



meets these guidelines. For any stations where the % is higher than 25%, we review it and remove it from the buy.

Additionally, each month, we run the same report against our TV spot buys and ensure that we continue to monitor that the activity placed meets the above criteria and does not breach the guidelines. The timeslots of the programming specified in the complaint have not historically been in breach of the AANA Code for Advertising and Marketing Communications to Children. Therefore, this TVC and the time in which it appears is acceptable under the W classification.

Previous Community Panel decisions where similar content was found to treat sexuality with sensitivity relevant to its audience

Refer other advertisements that have featured humorous sexuality in W category timeslots (and thus had exposure to children) and have still be found to not breach the Code of Ethics, due to sensitive and appropriate portrayal of sexuality for the audience. For example:

<https://adstandards.com.au/sites/default/files/reports/0001-20.pdf> and

<https://adstandards.com.au/sites/default/files/reports/0038-20.pdf> and

<https://adstandards.com.au/sites/default/files/reports/0218-20.pdf> and

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 advertisement features sexualised behaviour that is not relevant to the product being advertised and that is inappropriate for broadcast at times children may view it.

The Panel viewed the advertisement and noted the advertisers response.

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

The Panel noted the Practice Note for the Code states:

“Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisements for toiletries and underwear) is generally permitted but note the application of the relevant audience. More care should be taken in outdoor media than magazines, for example.

“Images of models in bikinis or underwear are permitted, however, unacceptable images could include those where a model is in a suggestively sexual pose, where underwear is being pulled up or down (by the model or another person), or where there is clear sexual innuendo from the ad (e.g. depicting women as sexual objects).”



Does the advertisement contain sex?

The Panel considered whether the advertisement contained sex. The Panel noted the definition of sex in the Practice Note is “sexual intercourse; person or persons engaged in sexually stimulating behaviour”.

The Panel noted that while there are several couples kissing there is not a depiction of sex.

Does the advertisement contain sexuality?

The Panel noted the definition of sexuality in the Practice Note is “the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters”.

The Panel considered the depiction of couples kissing and the reference to getting your ding back. The Panel considered that the advertisement did contain sexuality.

Does the advertisement contain nudity?

The Panel noted that the definition of nudity in the Practice Note is “the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity”.

The Panel noted that the advertisement featured mostly clothed people however noted that one man was shirtless. The Panel considered that the advertisement did contain partial nudity.

Are the issues of sexuality and nudity treated with sensitivity to the relevant audience?

The Panel noted that the definition of sensitivity in the Practice Note is “understanding and awareness to the needs and emotions of others”.

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 Panel noted that this advertisement was viewed on free to air TV and the audience is likely to be broad and include children.

The Panel noted a concern that the advertisement depicts “single desperate people keen to hook up with people they don’t know”. The Panel considered that there is no suggestion that the individuals do not know each other, noting that the woman that is the focus of the advertisement received a text message and then went to the park looking for someone which suggests that she is familiar with the man and they



arranged to meet in a park. The Panel noted that there is no suggestion that the couples in the background are strangers. The Panel considered that the advertisement does not promote kissing without consent or kissing strangers.

The Panel noted the advertiser's response that the scenes of people kissing are relevant to the product being advertised as those engaging in such behavior may wish to have fresh breath.

The Panel considered that while some members of the community may not wish to see such scenes, an advertisement depicting clothed people kissing in a public place is not highly sexualized and is not explicit or inappropriate for the relevant broad audience.

Section 2.4 Conclusion

The Panel determined the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

Conclusion

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