



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0281-19
2. Advertiser :	Sexyland
3. Product :	Sex Industry
4. Type of Advertisement/Media :	Billboard
5. Date of Determination	11-Sep-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This billboard advertisement features the words "more fun... Winter lock-in Stock up now!" and an image of a couple through a key-hole shape. A woman in black lingerie appears to be straddling a man and his hand is holding her thigh.

THE COMPLAINT

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

The fact the a sexually suggestive advertisement is displayed on a billboard on a busy road, lots of younger people in the community will be exposed to the image.

I find this advertisement offensive for a number of reasons. Firstly it is on view to the general public 24/7 in full view of all passing motorists. This, obviously, would include children of all ages. Secondly, if this type of advertising is allowed to continue, one must wonder what the public will be subjected to next. E.G. Will a woman be depicted nude? Thirdly, do local shop owners have a say in what is displayed outside their businesses? The billboard is not outside sexyland, it is outside Fonzie's Diner. I spoke to the manager of Fonzie's Diner, who has recently taken over management of the business. She is appalled at the billboard and would be very pleased to see it removed. One can imagine some families deciding against the venue so as not to subject their children to this type of advertising.



THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response.

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 is too sexual for display where children may see it.

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

The Panel considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Panel noted that the man's hand is holding the woman's thigh and that his fingers are pressing into her skin.

The Panel considered that the man's grip looks firm, but there is nothing to suggest that it is too firm or painful or aggressive.

The Panel considered that the advertisement did not contain violence and did not breach Section 2.3 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 features a man and woman in an intimate embrace. The Panel noted the woman is wearing underwear and considered



that while they do not appear to be engaged in sexual intercourse the behaviour was sexually suggestive. The Panel considered that the advertisement did contain sex.

The Panel considered whether the advertisement contained 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 considered that the depiction of a couple in an intimate pose in the context of the phrase 'more fun..' and in the context of a store for adult products was a depiction which would meet the definition of sexuality.

The Panel considered whether the advertisement contained nudity.

The Panel 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 a factor when considering whether an advertisement treats nudity with sensitivity to the relevant audience.

The Panel considered that the woman in the advertisement was wearing black lace underwear and that her breasts and genitals are not visible. The Panel considered that the man's bare chest and a part of his bare leg is visible and it was unclear from the picture whether the man was wearing underwear, although his genitals are not visible. The Panel considered that although there are no genitals in the advertisement, and the woman is clearly wearing underwear, the image did depict partial nudity.

The Panel then considered whether the advertisement treated the issue of sex, sexuality and nudity 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 noted 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 suggestions 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 the complainants' concern that the advertisement is on a busy road where many children would be exposed to it whilst driving past.

The Panel noted that this billboard advertisement is on the side of the road in an industrial area. The Panel considered that the audience for this advertisement would be mostly adults, however there would be children in vehicles driving past the billboard. The Panel noted that the relevant audience for this advertisement would be broad and would likely include children.

The Panel noted that it had previously considered a similar advertisement for the same advertiser in case 0173-19, in which:

“The Panel considered that the billboard has a mostly dark background and there is nothing brightly coloured or any images which are likely to attract the attention of children. The Panel considered that most children viewing the advertisement would see a couple hugging and would be unlikely to infer that the advertisement was for a store selling sexual products. The Panel considered that adult members of the community might prefer not to see this type of business advertised, but considered that as the business is legally able to advertise their service, that the advertisement does treat sexuality with sensitivity in that there is no context to the advertisement that directly emphasises sexual matters. The Panel considered that the advertisement was promoting a business which sells sexual products in a subtle manner and that it treated sexuality with sensitivity to the relevant broad audience.”

Consistent with the previous determination, the Panel considered that the advertisement does not contain sexualised language or any information to indicate to young children viewing the advertisement is for a store selling sexual products. The Panel considered that the image of the couple is partially obscured by the keyhole shape and that due to the close-up framing not all of the image can be seen. The Panel considered that children viewing the advertisement would not be able to easily distinguish the sexual nature of the image, especially when viewed for only a few seconds. The Panel considered that adult members of the community might prefer not to see this type of business advertised, , but considered that as the business is legally able to advertise their service, that the advertisement does treat sexuality with sensitivity in that there is no context to the advertisement that directly emphasises sexual matters.

The Panel considered that this advertisement did treat the issue of 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.