



Case Report

1	Case Number	0285/15
2	Advertiser	Samsung Electronics Aust Pty Ltd
3	Product	Mobile Phone or SMS
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	22/07/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement comprises a series of images or pieces of footage depicting: the new Samsung Galaxy S6; men and women dancing or posing, predominantly only visible as silhouettes; and people swimming, surfing, running or sitting. Almost all of the images or pieces of footage are each on screen for around one second or less. There is background electronic music and a voiceover which describes the product.

THE COMPLAINT

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

Naked people the most inappropriate is a lady facing away sitting down with her legs wide apart.

THE ADVERTISER'S RESPONSE

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

1 Background

Samsung Electronics Australia Pty Ltd (Samsung) would like to thank the Board for the opportunity to respond to the complaint made against Samsung's recent television

advertisement in relation to the Samsung Galaxy S6 (Advertisement). Samsung takes its responsibilities under the AANA Code of Ethics (the Code) seriously. Samsung believes that the Advertisement does not infringe any provisions of Section 2 of the Code.

2 The Advertisement

The Advertisement was first broadcast in Australia on 21 June 2015 and is scheduled to run until 6 September 2015. The duration of the Advertisement is 30 seconds, with a 60 second version also being broadcast.

We confirm that Samsung submitted the Advertisement (in four near identical versions, as well as the 60 second version) to CAD prior to its first broadcast and, on 17 June 2015, CAD issued a "W" rating for the Advertisement (CAD numbers: WIJA5CBA, WIJA6CBA, WIJA7CBA, WIJA8CBA, WIJA9CBA). A CAD rating of W means General/Warning and has fewer broadcast restrictions than the 'PG' (Parental Guidance) rating (CAD rating "P") and far fewer broadcast restrictions than the 'M' (Mature) rating (CAD rating "M").

The Advertisement comprises a series of images or pieces of footage depicting: the new Samsung Galaxy S6; men and women dancing or posing, predominantly only visible as silhouettes; and people swimming, surfing, running or sitting. Almost all of the images or pieces of footage are each on screen for around one second or less. There is background electronic music and a voiceover says:

Today looks different... nothing is as it was... or ever will be ... enemies of the ordinary... you're free at last... free to open your eyes...because dreams are meant to be realised... Samsung Galaxy S6... next is now. [the 30 second versions]

or

Today looks different... nothing is as it was...or ever will be ... enemies of the ordinary... you're free at last... free to open your eyes... as well as your mind. Now go to that place run wild with your imagination, bend all the rules and turn the corner of what's impossible because dreams are meant to be realised... Samsung Galaxy S6... next is now. [the 60 second version]

The Advertisement shows the sleek design of the new Samsung Galaxy S6 from different angles, with the people in the Advertisement striking poses and engaging in sports, fashion and artistic pursuits to reinforce the words of the voiceover.

3 The Complaint

The complaint relates to the "naked people" in the Advertisement, with the "most inappropriate" being "a lady facing away sitting down with her legs wide apart". Samsung disagrees with the complainant and strongly denies that the Advertisement breaches Section 2 of the Code in any way.

4 Section 2 of the Code

Samsung does not consider that the Advertisement raises issues under Section 2.1 (regarding discrimination or vilification); Section 2.3 (regarding the presentation or portrayal of

violence); Section 2.5 (regarding strong or obscene language); and Section 2.6 (regarding Prevailing Community Standards on health and safety) of the Code. Samsung addresses Sections 2.2 and 2.4 of the Code in more detail below.

Section 2.2 – employing sexual appeal in an exploitative or degrading manner

Section 2.2 of the Code states:

Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

The Board has stated that a breach of Section 2.2 requires that an advertisement use sexual appeal in a manner that is both exploitative and degrading. Samsung does not consider that there is any part of the Advertisement that employs sexual appeal in an exploitative or degrading manner. Samsung notes that no person is debased or abused for the enjoyment of others and no person's character or quality is lowered in the Advertisement.

The Board has noted that using images that focus on a man's or woman's body does not necessarily constitute a breach of the Code. There are some close-ups of men's and women's bodies in the Advertisement and, where they are used, the close-ups are of people's faces, bare backs and men's chests or are silhouettes, often with images projected onto the bodies. There is no depiction of the expression of power over one person by another and the Advertisement does not depict men's or women's bodies in an objectified and demeaning manner.

Nudity will typically only be in breach of Section 2.2 if the images are considered to be exploitative and degrading. Samsung submits that the Advertisement does not use exploitative or degrading images. Rather, Samsung considers that the Advertisement has an artistic quality because it focuses on the sleek design of the product and the human form, movement, dance, sport and fashion and therefore does not breach Section 2.2.

Section 2.4 – sex, sexuality and nudity

Section 2.4 of the Code states:

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

The "naked people" depicted in the advertisement, including the pose particularly complained about, are either: silhouettes, often with images or graphics projected onto them; men's and women's bare backs shown from the waist up; or men's chests. There are no images of women's bare chests, buttocks or genitalia visible in the Advertisement. There are no sexualised images used in the Advertisement. It is a tasteful depiction of the human form. Section 2.4 requires the Board to consider whether the Advertisement treats sex, sexuality and nudity with sensitivity to the relevant audience. Almost all of the images or pieces of footage in the Advertisement are each on screen for around one second or less. Samsung submits that any sexuality or nudity in the Advertisement has been treated sensitively, taking into account the likely viewing audience.

5 Conclusion

The Advertisement does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group. The Advertisement treats sex, sexuality and nudity with sensitivity to the relevant audience. Accordingly, Samsung submits that the Advertisement is not in breach of Section 2 of the Code in any respect and the complaint should be dismissed.

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 concern that the advertisement features silhouettes of naked people and in particular a woman with her legs spread which is inappropriate.

The Board viewed the advertisement and noted the advertiser’s response.

The Board then 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 features many flashing lights and scenes and colours being projected on the backs and bodies of seemingly naked people. The advertisement is for the new Samsung phone and the voiceover describes what is “possible” with the new Samsung Galaxy 6. The phones are displayed at the end with the text “Next is now.”

The Board noted the complainant’s concern that the models are naked and in one scene a woman sits with her back to the viewer but her legs are spread apart.

The Board noted the promotion is targeting phone users and the advertisement is likely to appeal to young adults. The Board noted the futuristic and creative tones of the advertisement and noted that the models appear naked but there is no close up nudity and throughout the advertisement only the backs of the models are visible.

The Board noted that there are a lot of flashing lights and imagery projected on the backs of the models and that the images shown are of fashion and surfing and that overall the tone of the advertisement is modern and artistic. The Board noted that the people do look like they are naked but the scenes are dimly lit so there is no detail.

The Board noted the particular scene of the woman with her legs apart and noted that the scene is fleeting and that the woman is seated and turned away from the camera. The Board considered that the level of nudity was very mild and in the context of a modern, stylised advertisement for a new phone the depiction of models, albeit naked, moving in a theatrical manner was not sexualised or intended to present inappropriate sexualised imagery.

Overall the Board considered that the advertisement did not portray sexualised images and did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.

The Board determined that the advertisement 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.

