



Case Report

1	Case Number	0290/14
2	Advertiser	La Trobe University
3	Product	Community Awareness
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	27/08/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

Advertisement features various scenes with a young child walking and a baby being born. One scene includes a mother feeding a new born baby.

THE COMPLAINT

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

I have never seen an ad with a nipple exposed before, when it looks like the woman is cold, and that's why the nipple looks the way it does.

Women in Australia are not legally allowed to have exposed breasts, except in certain circumstances. Advertisers shouldn't be allowed to have any ad that shows part of the human body that isn't legal in our day to day lives.

I make a conscientious choice not to watch any TV that warns prior to the commencement of the program that it contains nudity.

I don't expect to see this during ad breaks, and it's the third time I've seen this ad. The first time I wasn't even sure that I'd seen correctly. My 15 year old son was also watching with me, and given that you can't legally have sex in Australia until 16, this was an unacceptable thing to have on the ad break for him and other minors to see.

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 inviting La Trobe University's response to ASB complaint 0290/14 regarding our television commercial.

In regard to the AANA Advertiser Code of Ethics, La Trobe University strongly refutes that we are in breach of any provision of section 2. The Advertisement conforms to the Prevailing Community Standards in all provisions of Section 2.

2.1 Discrimination or vilification

The complainant does not raise the issues of discrimination or vilification.

The advertisement does not discriminate against breast feeding women, nor vilifies this group for taking part in an entirely natural part of life. The image of a woman breast feeding is not unfair nor does it treat the activity in an unfavourable light. The advertisement is highly supportive of the most natural activity of breast feeding. It maintains the integrity and modesty of the woman and infant.

2.2 Exploitative and degrading The advertisement is neither exploitative nor degrading.

The advertisement does not exploit nor degrade a woman in the activity of breast feeding. Breast feeding is one of the most natural acts of a mother feeding her infant. The image of the woman breast feeding her baby is done in a manner that is entirely natural and modest and does not abuse this activity for the enjoyment of others or objectification of women. The women featured was aware that she was being filmed breast feeding her baby and has given the University consent to use this footage for advertising purposes.

2.3 Violence

There is no violence shown in this advertisement.

2.4 Sex, sexuality and nudity

The image of a woman breast feeding is neither sexually explicit nor a depiction of nudity. A women breast feeding is a natural part of life and a normal activity that occurs within society. Its portrayal in this advertisement is undertaken in an understated, normal and modest way to demonstrate what a Nursing and Midwifery graduate would experience working within the

profession.

The image of the woman and baby breast feeding is less than 2 seconds in a 30 second advertisement. There is no nudity shown in the advertisement. The television commercial in question was reviewed under accepted practices by the independent authority CAD and received a G rating. This rating deems the advertisement as suitable for children to watch without supervision. This contradicts the complaint in question which references that a 15 year old child shouldn't have be able to see the television commercial because he was under the legal age of sexual consent.

During the post-production process the University cropped the original footage to ensure the women's modesty was upheld and in line with the Advertising Standards Bureau. The image of the woman breast feeding in the advertisement is done in the context of a woman who has just given birth with the assistance of a nurse/midwife who is a La Trobe University alumnus. The image is taken in an entirely natural situation; the woman's modesty is upheld, as the baby is shown breast feeding. The complainant, in her reason for concern, states that women in Australia are not legally allowed to have exposed breasts, except in certain circumstances. One of those circumstances is within the birthing suite, where this portion of the commercial was filmed. Another acceptable circumstance is when a woman is breastfeeding, which she is legally allowed to do in public. Therefore there is every chance that the complainants' child has or will see a woman breastfeeding in public. In addition, this G classified advertisement was viewed by the complainant and her child, between 10.pm – 11pm , which is a time slot where the station shows PG advertisements.

2.5 Language There is no unacceptable language used in the advertisement. The words and phrases are entirely consistent with good and socially acceptable language and are not demeaning or offensive.

2.6 Health and safety

The portrayal of infant breast feeding in the advertisement is an entirely natural activity. There is no depiction of the infant or the breast feeding woman that would be considered as putting them in a conflicting or unsafe situation. In regard to public health, the representation of a breast feeding women is entirely appropriate in illustrating the moments after birth that would be experienced by a nursing and midwifery graduate/professional.

The Joint WHO / UNICEF Meeting on Infant and Young Child Feeding, Geneva, October, 1979 issued the following statement on the natural activity of breast feeding: 'Breastfeeding

is an integral part of the reproductive process, the natural and ideal way of feeding the infant and a unique biological and emotional basis for child development.’ La Trobe University actively supports breast feeding and the WHO global public health recommendation calling for exclusive breast feeding for the first six months of life and continued breast feeding along with the introduction of safe and appropriate complementary foods thereafter. The Judith Lumley Centre in partnership with the Royal Women’s Hospital and Early Childhood Development have developed new Victorian Breastfeeding guidelines, aiming to protect, promote and support breastfeeding mothers across the state and nationally.

In conclusion, La Trobe University has acted responsibly and ethically with regard to prevailing community standards in demonstrating relevant professional experiences that are facilitated by our degrees. We do not consider that we have breached any of the provisions of section 2 of the AANA Advertiser Code of Ethics.

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 features a woman’s nipple and that this is a level of nudity which is inappropriate and unacceptable 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 the advertisement features images of a child being helped to walk, a newborn baby and a woman breastfeeding her baby.

The Board noted the advertiser’s response that the woman in the breastfeeding scene was aware she was being filmed and had given her consent to the image being used in the advertisement.

The Board noted the complainant’s concern that the nipple of the woman who is breastfeeding is visible.

The Board noted it had recently dismissed a complaint about an advertisement for infant formula which featured a breastfeeding scene in case 0237/14:

“The Board noted the advertisement shows a fleeting image of a woman lying down breastfeeding her infant...

...The Board noted that there is a genuine community support of breastfeeding and acknowledges the importance of encouraging women to breastfeed if they are able. The Board considered that the image of the woman feeding is very brief and is a depiction that does not expose the woman’s nipple or any nudity and is a modest and realistic depiction of how women feed their babies.”

In the current advertisement the Board noted that whilst the woman is clearly breastfeeding in

the Board's view the woman's nipple is not visible and we do not see the baby's mouth on the nipple as its hand is resting against its mouth.

Consistent with its determination in case 0237/14 the Board considered that the image of the woman feeding does not expose her nipple and that overall the scene is a realistic depiction of a woman feeding her newborn child.

The Board noted that the advertisement had been rated 'G' by CAD and considered that in the context of an image of a woman breastfeeding a baby the level of nudity in the advertisement is not inappropriate for a broad audience which would include children.

The Board considered that the advertisement did not include imagery that was of a sexual nature and that overall it did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad 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.