



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0291/17</b>
<b>2</b>	<b>Advertiser</b>	<b>Stan</b>
<b>3</b>	<b>Product</b>	<b>Entertainment</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>12/07/2017</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

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

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement is promoting a show on Stan called 'I'm dying up here'. On screen text says that Jim Carrey is the Executive Producer and that this new show is from the network that brought you Billions and Ray Donovan. We see various scenes from the show including someone smashing a windscreen of a car, a man on stage, a man hitting another man, and a woman in underwear jumping in to the arms of a shirtless man.

## THE COMPLAINT

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

*I object to this advertisement because it showed nudity when I was watching the news with my 9 year old son. Very inappropriate for a 5:00 time slot.*

## THE ADVERTISER'S RESPONSE

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

**COMPLAINT REFERENCE NUMBER:** 0291/17

**ADVERTISER:** STAN ENTERTAINMENT PTY LTD (ABN 94 168 856 924) (STAN)

*Thank you for your letter.*

#### *Advertisement*

*We note that the complaint relates to the Stan advertisement for the new series of I'm Dying Up Here (Show) that:*

- ran for 30 seconds at 5:35pm on 9 June 2017 during Ten Eyewitness News on Channel Ten;*
- features footage from Season 1 of the Show as described below; and*
- is part of Stan's marketing campaign for the new series of the Show that premiered on the Stan service on 12 June 2017.*

*(Advertisement).*

*The Advertisement contains the following dialogue:*

*Hey! I'm up here working. You know how hard this is!*

*I wanna go up tonight.*

*When. You're. Ready.*

*You got the world by the balls, but you're too much of an idiot.*

*These are tortured souls!*

*You stole my joke!*

*Oh!*

*Some nights you kill.*

*Ha ha ha ha!*

*Some nights you bomb.*

*For some reason ya keep coming back.*

*The CAD reference number is P4UB1MPA and the CAD rating for the Advertisement is 'PG'.*

#### *Stan's Response*

*We have reviewed the relevant sections of the AANA Advertiser Code of Ethics (Code) and also the information and guidance provided on [adstandards.com.au](http://adstandards.com.au) in relation to responding to complaints.*

*In our view, the Advertisement complies in all relevant respects with the Code, and is in step*

*with Prevailing Community Standards.*

*We address each element of section 2 of the Code below:*

### *General*

*We note that the complaint alleges that the Advertisement contained “inappropriate content for a 5:00 [pm] time slot. The show being advertised showed a ladies [sic] back, she was wearing a bra and no underwear jumping up into a mans [sic] arms.” [emphasis added] (Complaint).*

*We assume that this is a reference to the 1 second clip 21 seconds into the Advertisement (Scene). As a general comment, the Complaint is inaccurate since the Scene shows a woman wearing a bra and underwear.*

*Further, the Advertisement received a PG classification from CAD. Based on CAD’s classification, the Advertisement was permitted to be scheduled during Ten Eyewitness News which is broadcast in a PG classification zone.*

#### *s2.1 Discrimination or vilification*

*The Advertisement and, in particular, the Scene, does 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 is also not raised by the Complaint.*

#### *s2.2 Sexual appeal*

*The Advertisement and, in particular, the Scene, does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.*

*The Scene is directly related to the Show and is a one of many scenes from the Show used in the Advertisement to promote the Show.*

*In any event the footage and placement was consistent with the CAD rating.*

#### *s2.3 Violence*

*The Advertisement and, in particular, the Scene, does not present or portray violence and the Complaint does not raise this.*

#### *s.2.4 Sex, sexuality and nudity*

*The Advertisement and, in particular, the Scene, did not contain any sex, sexuality or nudity. As stated above, the Scene shows a girl wearing a bra and underwear. She is not nude.*

*In any event the footage and placement was consistent with the CAD rating.*

### *s2.5 Obscene language*

*The Advertisement and, in particular, the Scene, does not include strong or obscene language or any other dialogue and the Complaint does not raise this.*

### *s2.6 Health and Safety*

*The Advertisement and, in particular, the Scene, does not contain any material which is contrary to Prevailing Community Standards on health and safety (including as detailed in AANA Code of Ethics Practice Note), nor does the Advertisement depict any dangerous behaviour which is likely to be imitated by children. The Complaint also does not raise this.*

*For the reasons set out above, we believe the Advertisement complies in all relevant respects with the Code, particularly having regard to the CAD rating and the time and place the Advertisement was broadcast.*

*Please let me know if you require any further information.*

## **THE DETERMINATION**

The Advertising Standards Board (the “Board”) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that the advertisement depicts an image of a woman in a bra, but no underwear, which is not an appropriate level of nudity for children to see.

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

The Board 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 Board noted this television advertisement features scenes from a show airing on Stan called “I’m Dying up here”.

The Board noted that in one scene a man punches another man, and in another scene a person smashes the windscreen of a stationary car.

The Board noted that the advertisement is clearly a trailer for a television series. The Board noted that it is reasonable for trailers to depict a sample of the content of the product they are advertising and considered that the level of violence depicted in the current advertisement was not excessive or inappropriate in this context.

Consistent with a recent determination for a similar complaint about a promotion for the series, Twin Peaks, (0197/17) the Board considered that the current advertisement did present or portray violence which was justifiable in the context of the product advertised.

The Board determined that the advertisement did not breach Section 2.3 of the Code.

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 complainant’s concern over a scene showing a woman in a bra jumping in to the arms of a man.

The Board noted the scene showing an underwear-clad woman jumping in to the arms of a man is fleeting but considered that it is clear the woman is wearing underwear and in the Board’s view the level of nudity is very mild.

The Board noted that the man appears to be shirtless and in a bedroom but considered that the scene is too brief to get a strong sense of sexual suggestion.

The Board noted that the advertisement had been rated ‘PG’ by CAD ([http://www.freetv.com.au/content\\_common/pg-cad-about-cad.seo](http://www.freetv.com.au/content_common/pg-cad-about-cad.seo)) and considered that the content of the advertisement was not inappropriate for the relevant broad audience which would include children accompanied by a responsible adult or guardian, as per the classification guidelines.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and 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.