



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0297-21
2. Advertiser :	It's Normal
3. Product :	Other
4. Type of Advertisement/Media :	Billboard - Mobile
5. Date of Determination	27-Oct-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This advertisement features two images.

Image 1 is placed on the back of a billboard trailer and features a close up of skin, an image of an adult toy and the text "Freedom day has cum".

Image 2 is placed on the side of a billboard trailer and features a close up of a person shoulders and neck with an adult toy placed along the back of the neck. Text states "Sydney, it's time to open up. Explore every inch of your body. 'FREEDOMDAY' for 50% off all sex toys".

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Inappropriate material, subject and images for children and families in public place.

THE ADVERTISER'S RESPONSE



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

Thank you for your Notification — which relates to a mobile billboard travelling in Bondi Beach (photos of which are provided with this letter), advertising two of Normal’s products — and for the opportunity to provide a response.

In short, this advertisement depicts Normal products in a patently non-sexualised manner. At best, the complaint engages only section 2.4 of the AANA Code of Ethics (Code), which we deal with below.

In providing this response, we also rely on the general comments about the advertising of sexual products (and about Normal’s goals as a company) advanced in Normal’s response to Ad Standards complaint 0288-21, which we do not repeat here.

Section 2.4: Sex, sexuality or nudity

The Code defines “sexuality” as “the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters”, and in the broadest possible sense this advertisement employs sexuality.

However, in our submission, this use of sexuality is neither “harmful” nor “inappropriate” as contemplated by the AANA Practice Note which elaborates on the Code.

The advertisement depicts two Normal products, without description of their function except the vaguest implication from the words “explore every inch of your body” (and their label as “sex toys”). The advertisement employs double entendre in its references to “open up” and “cum”, in the context of the end of the COVID-19 lockdown restrictions in Sydney. The background of the advertisement contains deliberately non-specific portions of an unclothed body: indeed, while on first appearance one of the images may appear to be of a buttocks, on closer inspection the image is of a man’s shoulder blades.

These characteristics of the advertisement have been consciously employed out of sensitivity to the likely broad audience who may see the mobile billboard travelling through public places.

For the benefit of the Panel’s consideration, we refer to its only two recent examinations of billboard advertising of sex toys:

- Case 0386/18 considered a poster located opposite one of Brisbane’s largest shopping centres, which depicted four vibrators and contained the words “Ladies rejoice” and “magic touch”. In dismissing the complaint, the Panel noted that the advertisement did not describe the function of the products being sold, with the result that children seeing them would be unlikely to understand their purpose. In this way, the Panel considered that the advertisement treated “the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience”.



- Case 0157/18 considered a poster in a residential street which depicted a woman in white lingerie on a bed, with the words “womanizer, your private delight, world first touchless clitoris stimulator” (however, by the time of the Panel’s examination, the word “clitoris” had been covered by the advertiser). In dismissing the complaint, the Panel considered that while “the woman is sexualised, the overall impact of the image is relatively mild in the context of the advertised product” and that the advertisement “treated the issue of sex, sexuality and nudity with sensitivity to the relevant audience”.

By reference not only to the Panel’s previous consideration of very similar (if not more sexualised) advertisements, but also to the independent sensitivity exhibited by the Normal advertisement at issue, we submit that the advertisement clearly does not contravene section 2.4 of the Code. We hope that the above information is of assistance to the Panel’s consideration. We would be more than happy to provide any additional detail or clarification if needed.

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 complainant’s concern that the advertisement refers to sexual matters and is inappropriate for display in a public where 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).

“The use of the word “sex” does not, of itself, make an advertisement unacceptable. However, such advertisements must not contain images that are overtly sexual and inappropriate having regard to the relevant audience.”



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 the advertisement is promoting adult products intended for sexual activity however considered that there is no depiction of such activity. The Panel considered that the advertisement did not contain 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 noted that the advertisement is promoting of a product intended for sexual activity. The Panel also noted the references to “sex toys” and “cum”. 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 while bare skin is visible in the advertisement, the images are very close up and a viewer would be unable to determine if the people are clothed or not. The Panel considered that the advertisement did contain a suggestion of 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 seen at a public beach, and noted that it is located on a trailer and would therefore have been driven to the location. The Panel considered that the audience viewing the advertisement would be broad and would include children.

Image 1



The Panel noted that the imagery of the advertisement is not highly sexualised. The Panel considered that using the term “sex toys” when advertising that product is not inappropriate, nor is depicting an image of the product. The Panel noted that while there is a suggestion of nudity, there is no explicit nudity including no depictions of genitals.

The Panel noted the use of the word “cum” and considered that it is generally understood to be referring to sexual matters when spelled in that manner. The Panel acknowledged that children would be unlikely to understand that the word has sexual connotations, however considered that the use of this spelling may invite more questions from children.

The Panel noted that the intent of the advertisement is to create a double entendre, however the Panel considered that the spelling used makes the meaning clear to an adult audience and a double entendre could have been achieved by using conventional spelling “Freedom day has ‘come’.”

The Panel considered that the language used is sexual, however in the context of the overall advertisement where the imagery is muted, determined that it is not inappropriate for a broad audience.

Image 2

The Panel noted that the advertisement does not use overtly sexual imagery, nor does it use explicit language. The Panel considered that using the term “sex toys” when advertising that product is not inappropriate, nor is depicting an image of the product.

The Panel considered that the sexual element of the advertisement was not overt and was not inappropriate for a 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 complaint.