



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0300-20
2. Advertiser :	Modibodi
3. Product :	Health Products
4. Type of Advertisement/Media :	TV - Pay
5. Date of Determination	7-Oct-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.3 Violence
AANA Code of Ethics\2.4 Sex/sexuality/nudity
AANA Code of Ethics\2.0 Other

DESCRIPTION OF ADVERTISEMENT

There are two versions of this Pay TV advertisement.
The thirty second version features:
A woman stands in a large room with a mirrored wall. She is wearing maroon shorts and a crop top and looks at her reflection.
A second woman wearing glasses sighs
A third woman lies in a foetal position on a bed with a pillow between her legs. She is crying.
A sheet with a blood stain hangs out of a washing machine
The second woman is seen taking off a peel strip from a pad, then she can be seen pulling up her pants through a cubical door. She throws the used pad wrapped in toilet paper into an overflowing bin.
The third woman sits on the edge of her bed taking deep breaths
The second woman lies on a bed in the advertised underwear laughing with a fourth female and eating hot chips.
A fifth woman wrings blood out of her underwear in a shower, before wiping condensation off the glass and smiling.
The first woman is seen dancing energetically
The second and fourth women stand together smiling.
The fifth woman is shown standing in her underwear



The second woman is shown standing in her underwear

The first woman is shown smiling

The second woman is shown lying on a bed in her underwear with the words 'The new way to period' superimposed on the screen.

The voice-over states, "When it comes to our periods we have always made to feel a certain way. Made to feel like we have no choice. Made to feel uncomfortable within our own bodies. Modibodi period underwear are made for you to feel better about your period. Modibodi are made for you to feel however you want to feel.

The fifteen second version features a woman lying in a foetal position on a bed with a pillow between her legs. She is crying. The woman is then shown lying in bed with her partner. She is wearing the advertised underwear and a crop top. She is laughing and eating chips. The words, "The new way to period" appear on screen. The voice-over states, "We can't take away period pain. But we can take away the pain of periods. Modibodi period underwear, made for you to feel, however you want to feel."

THE COMPLAINT

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

The ad shows a bin with soiled sanitary pads, sheets with blood stains, a women wringing out her bloody underwear in the shower!!!!

As a women, I know what happens when I have my period each month. It's unnecessary to show the blood particularly when my pre-teen son is watching!!!!

My wife and I were greatly offended by the depiction of menstrual blood being wrung out of the undergarments in the shower.

This ad shows very graphic images of menstruation - bloody sheets, blood in the shower, someone wringing out bloody underwear and more. Those types of graphic images are totally unnecessary and offensive. Any female who has / has had periods knows what it is like and we do not need to see images like that. Young girls who have yet to experience menstruation would likely be horrified and frightened by those images. (I am a primary school teacher so I believe I understand how young girls would feel). Why would boys and men need to see these ads? Has it been designed to shock or horrify? My assumption is yes. A brand can easily advertise their concept of period underwear without the horrible shock value of those images. My husband, my daughter, my son and myself all find this ad extremely disgusting and offensive. We should not be subject to ads such as these made (I'm sure) purely for their shock value.

The TVC is offensively graphic in nature and has been on very high rotation. Very inappropriate suggestions of hot chips with tomatoe sauce around a woman's abdomen and easily confused as a leaked sanitary item.



I was offended to the point of being disturbed by this 'bloody' disgusting ad. To blatantly display blood in such a fashion in multiple scenes is horrifying and gross... and absolutely unnecessary, particularly at a time of day when children could be watching and/or people and families might be eating dinner. Viewers should not be unwillingly confronted by this type of repulsive material. I request that the content of this ad be reviewed by Ad Standards for its appropriateness, given the excessive depiction of blood, and the time of day in which it is advertised. Thank you for your time.

I don't disagree with the message but when I'm cooking dinner it's an inappropriate scene to watch plus my daughter who is 8 was watching and asked questions about the depiction of blood! The ad is too graphic and it's not called for! You can get your point across without the depiction of blood soaked items

There is graphic images of blood and images that are red (obviously depicted to look like blood) and it relates to the menstrual cycle. As a female I find it offensive as I don't need to be reminded of the pain, discomfort and inconvenience of having a period. It is a very personal experience that every female goes through and it doesn't need to be advertised so graphically. I don't need to be explaining to my young nieces and nephews about something that while is natural is also very private. As a female I know what products are available to me I don't need advertising to help me.

THE ADVERTISER'S RESPONSE

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

Having considered the complaints and the relevant provisions of the ASA Advertising Codes of Practice (Codes), we submit that the Modibodi® The New Way To Period commercial (the TVC) the subject of the complaints complies with the Codes.

Accordingly, we submit that the complaints should be dismissed. Many of the complaints made to ASA do not specifically reference a section or part of the Codes which the TVC allegedly breaches. However, ASA has referred us to the following issues / potential breaches of Codes raised by the complaints:

- *Compliance with the Code*
- *AANA Code of Ethics / 2.4 Sex / sexuality / nudity / sexualisation of children*
- *Modibodi® The New Way To Period commercial does not contain any scenes portraying sex or alluding to sex*
- *Modibodi® The New Way To Period commercial does not discuss sexuality or contain representations in relation to sexuality*
- *There is no nudity in the Modibodi® The New Way To Period commercial*
- *There are no children or representations of children in the Modibodi® The New Way To Period commercial*



- *We are also able to confirm that all talent were over 18 years of age at the time of filming. Due to privacy laws we cannot disclose any of their personal details.*

AANA Code of Ethics / 2.0 / Social Values

It is claimed that our TVC does not uphold social values, as the code does not further identify a criteria for this, we have reviewed impactreporting.co.uk for the clear definitions on this.

Our social value definition fundamentally considers four primary types of social value including community, sustainability, well-being, and diversity.

We believe there is no violation to social values as classified by the code with the TVC celebrating diversity with mixed races represented in the campaign as well as sexual orientation. The entire campaign shows the audience that Modibodi is a product that is better for the environment and better for their wearers body.

AANA Code of Ethics / 2.1 / Discrimination or Vilification / Gender

There is no discrimination or vilification of any person in the Modibodi® The New Way To Period commercial. In fact, the very purpose of the ad is to address feelings of discrimination or shame that women may have felt when experiencing their period. The commercial celebrates that there is a new way to have your period and feel normal, because having your period is normal

AANA Code of Ethics\2.3 Violence\Graphic depictions

There is no violence present or inferred in the Modibodi® The New Way To Period commercial.

Modibodi uses red to represent period blood in the commercial because the brand sincerely believes that artistic representations of blood (such as blue liquid) perpetuate the myth that periods are to be feared, are unnatural or gross. The blood represented in the film portrays common scenarios women will experience during menstruation in a way that is sympathetic and never sensational. The depictions allow women to connect with the film through familiar period experiences. Seeing blood is key to the message that periods are normal

Prevailing community standards it also appears the complaints fall into the following broad categories, many of which do not necessarily fall within the scope of the Codes, but are nevertheless claims that Modibodi denies:

Advertisement is generally embarrassing and crass

Modibodi's mission is to break down taboos, help people to understand and embrace their bodies, while also looking out for the planet through our sustainable, leak-proof apparel.



Our aim for this film was to open people's minds by taking the stigma out of what is a perfectly natural bodily function. It was not made to be deliberately sensational or provocative, but to show the very real and natural side of periods.

Advertisement was offensive

Periods are considered to be offensive because for centuries women have been shamed for experiencing this very natural part of life.

Fiona Jenkins, convenor of the Australian National University's Gender Institute, commented to The Sydney Morning Herald this week in relation to Modibodi® The New Way To Period commercial, that to be shamed for menstruating, "you are [made] to feel yourself is somewhat degraded, or you know, less than human, almost, by virtue of something to do with your body."

Every day, Modibodi works to positively empower women and men to speak openly about periods and incontinence. It can be challenging to talk about these issues in public because it does make many people feel uncomfortable, however, this does not make the ad offensive.

Children are too young for parents to explain the product and periods

Recent research by Modibodi found that one in three young girls are afraid of talking about periods and the brand is on a mission to replace fear and shame by helping everyone embrace their bodies.

The film was launched in a bid to end the centuries old view that periods are 'gross' or shameful in addition to heralding a new more sustainable approach to managing periods. It is time to call for a change of attitude so that the next generation of women will feel empowered by their period, not ashamed.

Too graphic and unnecessary exposure of menstrual blood

Modibodi has used red to represent blood from day one. 'The New Way to Period' shows the real side of menstruation and that there are better options available than eco-damaging disposable pads, liners and tampons.

The overflowing bin is a representation of the truly shocking fact that the average menstruating person, if they use disposables, will use up to 11,000 single use items from landfill within a lifetime.

When just 100,000 young girls use Modibodi alone from the start of their menstrual cycle, this will prevent 1.1 billion disposable hygiene products from ending up in landfill or 1.5 million garbage bags of waste.



Modibodi is helping Australians to make decisions that will benefit the environment for generations to come. As of May 2019, an estimated two million garbage bags of disposable hygiene waste have been prevented from ending up in landfill or flushed into our waterways by Modibodi customers.

Again, menstrual blood is a normal bodily function that an average of 50% of the population. Most Australian women will menstruate for about 40 years in total, bleeding for about five days a month, or about 2,400 days over the course of a lifetime—about six and a half years, all told. All that menstrual fluid has to go somewhere. In the Australia., it usually ends up in a tampon or on a pad, and after their brief moment of utility, those products usually end up in the trash. Modibodi's reusable products allow women to period a new way that allows their body to function freely without interference of an internal product like a tampon or menstrual cup and prevents adding to the millions of kilos of landfill.

Menstrual blood itself is offensive

Akin to normal, healthy bodily functions like blood pressure or heart rate, a woman's menstrual cycle is symptomatic of overall health. Fast flow, dark red, spotting or slow flow – all of this can indicate anything from infection and low oestrogen to a miscarriage.

Most women have or will get their period, it's in our DNA. One in three mums experience bladder leaks after childbirth and one in five men who visit the GP experience incontinence. But as a society, we still struggle to discuss these topics.

Every month, every single person on the planet who menstruates sees blood. Women shouldn't be made to feel ashamed when they are bleeding. And men should also accept that they would not be here without a period and that it is important the menstrual blood is not seen as offensive.

We have also set out below some of the very positive responses to the TVC we have received, which we submit should be considered by the ASA's when deciding whether to dismiss the complaints. As well as turn over of bans Facebook placed on the campaign online and then remove this ban. Note the ban was on the 60 sec variation of the TVC.

Facebook statement – 1 October 2020

"Encouraging open discussion about the issues Australian women face is important to me personally and to our values at Facebook. We know these issues are complicated, and our Sydney-based team has been working closely with Modibodi across the development of this campaign. After further review and consultation with our teams, we are pleased that Modibodi's ads will now be shared across our platforms in their entirety," said Naomi Shepherd, Director, Facebook Australia and New Zealand.
Support for the campaign-Positive feedback online



Modibodi expected that its TVC would not be universally liked. Complaints received align with the results of our research – i.e. many people feel uncomfortable when confronted with the reality of periods, they would prefer for periods, to stay a topic just talked about by women and girls behind closed door and hidden away from mainstream culture.

Since launching The New Way to Period campaign Modibodi has been overwhelmed by supportive comments it has received across all media from men and women of all ages. Examples of publicly available feedback is set out below. The purpose of the campaign was for Modibodi to play its part in breaking down taboos for periods, and show women they have a choice. The comments below, show that the campaign has started conversations and will contribute to breaking down the taboo and shame surrounding periods.

- *“Love this ad. It’s a shame we have to hide what we leak. Let’s hope the next generation doesn’t feel shame or embarrassment”*
- *“100% good job Modibodi for showing us something that’s not blue liquid. This is natural and normal.”*
- *“I love the sheet ad we have ALL been there and Modibodi has fixed that experience.”*
- *“Very powerful campaign”*
- *“If you told people this was from a bloody nose – a sports injury. They wouldn’t complain. As soon as it becomes known it’s from a period there is an issue? Blood is blood. Period. GTFO”*
- *“It’s actually the perfect age to start explaining the facts of life. Period blood needs to be normalised. If they have questions, it’s always best to answer them. Even at a young age. It’s how you help them feel comfortable to open up to you as they get older”*
- *“What an incredible ad, so real. Now this is what we need to show our young people. No more shame or stigma”*
- *“I love that this shows red blood! Nothing shameful about bleeding”*
- *“Amazing to see actual blood on my feed... none of this fake rubbish! The real stuff!!! Thank you ModiBodi”*
- *“THANK YOU for making the blood red!! So often missing from period care ads, as if we bleed blue”*
- *“This video is amazing. We need this message far and wide to dismantle the period shame that exists. Love love love my @modibodi – I could never go back to disposable sanitary products now that I know/have felt the difference! Xx”*
- *“Oh jeez, grow up. Who cares, its a natural bodily function, not to be shamed, nor hidden. If women didn’t have periods we wouldn’t have babies.. jesus, its 2020, not 1950.”*
- *“This is fantastic! Big congrats to your whole team on achieving this huge milestone. One big step at a time!”*
- *“Love this campaign and working with such a taboo-and-shame-breaking brand like Modibodi!”*
- *“It’s 2020...the time is overdue to remove the stigma around talking about periods - a natural and pivotal part of life! Well done on the ad and sticking to your truth Modibodi, great ad.”*



- *“So good to see this, because periods are definitely a normal thing and to think we need to normalize this is crazy. Congrats great ad!”*
- *“This ad and the product is amazing and a far cry from the terrible ads we had to sit through growing up in the 80's and all the shame that came from being a girl and getting your periods. I now have a daughter and I cannot be happier that she will never have to wear a tampon or a giant pad to school or work. thank you!”*
- *“Thank you Modibodi, I wanted to reach out to say how incredible your campaign is. My husband and I were watching tv the other night and your new ad came on and I literally stopped what i was doing and watched it, and it gave me chills. It made me emotional! To be able to see a truthful period ad, with bloody sheets and water, with the feel of being uncomfortable in our bodies, with all the feels, I can't even put into words how liberating it was to see it on screen. Our periods aren't shameful, they are natural and beautiful and it's about time the word (read: the patriarchy) let us show that. So thank you and keep being bloody amazing”*
- *“ A very powerful campaign”*
- *“ I love the sheet Ad, all been there and Modibodi have fixed it”*
- *“If you told people it was a sports bloody nose, they wouldn't complain. Blood is blood, what's the issue?”*
- *“Love love love this, incredible ad, an innovative brand making an incredible impact”*

We tested the campaign creative prior to market launch to gauge reaction via third party independent provider Real Eyes, during this test 150 people viewed the TVC 30 sec creative and the below insight was gathered from facial recognition coding:

- *The video is eliciting an emotional scale of strong reactions, with a wide range of emotional reactions, attention and resonance peaked at moments that featured Wringing out undies & shower scene, couple smiling on bed*
- *Seconds at bin are particularly strong in attentiveness and once viewers are into the ad (15" in), retention is particularly strong*
- *Washing machine delivers high attention and interest and audience continues to watch 75% through creative*
- *Happy begins to peak as the narrator continues to describe the benefits of Modibodi and the women are shown together*

Though not technically required for the channels of Digital TV on Demand and Subscription TV, Modibodi took the initiative to get CAD approval for both 30" and 15" TVC's. Both TVC's were cleared by ClearAds Australia, with the approval code G8HSZWAA- 15 sec advertisement and P898JWAA- 30 sec advertisement. In each case the TVC's were confirmed as suitable for broadcast on mainstream free to air television. Further to this, both TVC advertisements received acceptable G and P rating by ClearAds Australia. The Free TV Commercial Television Industry Code of Practice, under 2.2.1, states that "material that has been classified C, P, G or PG may be broadcast at any time. Modibodi has complied with the above guidelines and ratings and considers the above ratings as appropriate as they allow the TVC's to be shown at times when adults are viewing and can provide guidance to any children also viewing.



For your reference we have detailed below under details of the TVC's creative team and the creative, Australian consumer research idea behind the TVC, as well as the media coverage and sentiment, with positive sentiment well out way any negative sentiment.

Additionally, Research compiled from Modibodi's February 2020 customer survey with over 15,000 respondents stated:

- 71% feel confident about talking about periods, incontinence, perspiration and odour*
- The main reason for purchasing Modibodi is to remove disposable period products (59%); 62% of customers would pay a price premium for a fully biodegradable or recyclable product*
- 68% would not purchase if they had not seen our advertising campaigns*
- Majority of Modibodi customers purchase the products for themselves (89%) followed by for their daughters (24%)*

Based on the Australian research, Modibodi decided launching The New Way To Period campaign in Australia was the right thing to do as the taboo was real in Australia. Critically, it was seen as within Modibodi's brand essence that stands for limitless positive impact, and in all we do, we strive to achieve this.

It is also relevant that as the leading Australian brand of reusable feminine care products, Modibodi is committed to and has always played a leading role to help educate and facilitate open and transparent conversations among women and girls to normalise periods and to encourage women to feel empowered about having a period. Some examples include:

Modibodi® positions itself in the market to break down period shame as an Australian societal issue. We're proud to be involved in facilitating education programs that champion positive, open and truthful conversations around health issues - periods, incontinence, and menopause – and are focused on reducing body shame, isolation and the stigma associated with these issues. Modibodi actively supports charitable and social organisations with educational materials and product donations such as Share the Dignity; Plan International, Bright Girl Health Period Education. We have also reached over 500,000 school aged students through a dedicated program by providing free resources to education providers for teaching puberty and menstruation through its partnership with the Sustainable Period Project (SPP). SPP has provided hundreds of Australian 3rd Stage primary and high school students a complete school resource kit with sustainable period management products, these kits a presented at class level with both female, male and non-gendered students in attendance and opens the conversation in relation to sustainable menstrual management products such as Modibodi Period Underwear.

Modibodi also provides free content and access to health professionals and cohort peers to work towards removing the stigma associated with periods through our dedicated blogs for tween brand Modibodi Red and Modibodi hosted on each of our 5



global websites and well as dedicated podcast “The Red Tails” that can be viewed here: <https://www.modibodi.com/pages/the-red-tales-season-three>

Campaign background

1. Background Strategy

Centering the brand strategy on ‘Freedom’. Designed with the whole brand in mind - beyond period pants, for everyone, cradle to grave. Modibodi’s vision is A more confident, united and happier world. Our Purpose is to give people the freedom to create limitless positive change with our brand values of all of which have been reflected in our campaign.

- Inclusivity, accessibility and diversity
- Authenticity
- Giving
- Design and Craftmanship
- Sustainability

2. Creative Idea

Proposition: Disposables are history- we wanted the audience to feel:

- Inspired/Motivated- to be part of a new movement
- A sense of pride- in doing better for the environment
- Realizing that there is a better way to period- without compromise give the world class product/comfort Modibodi delivers
- An overall feeling of being progressive-again without compromise

3. The Idea

Execuational Insight: Women have always been made to feel uncomfortable about their periods

Women should get to decide how they feel about their periods. And with Modibodi period underwear, there’s a new way to period that changes everything.

4. The Media Buy

The TVC is a a part of a mutli-channel approach with the campaign currently appearing across Digital Video Xaxis and Unruly, Youtube, Instagram, Pinterest, Modibodi Owned channels as well as Facebook. Currenty online social seeding of the campaign has reach in excess of 5 million views within 1 week of being in market. The TVC media pacing has been placed so that it does not appear too frequently and is cap at once per 30min viewing time on the same channel.



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 first outlined the complaints received about the advertisement.

- Complainants’ were concerned about the tasteless of the advertisement.
- Complainants’ were concerned about the advertisement being discriminatory and vilifying towards woman by publicising a private matter.
- Complainants’ were concerned that the placement of the advertisement was inappropriate, particularly the placement during the evenings when many young children would be watching. Complainants noted that the advertisement was upsetting to children, and that the advertisement had caused children to have many questions about the content of the advertisement.
- Complainants were concerned that the placement of the advertisement was inappropriate, particularly the placement during the evenings when many women are watching television with their partners, children and parents and may be embarrassed by the content.
- Complainants’ were concerned that the depiction of a bodily function and blood (on a stained towel, underwear, and in a shower) was unnecessary, and may be upsetting to some viewers who are unsettled at the sight of blood.
- Complainants’ considered that just because menstruation is normal, it doesn’t mean it is appropriate to be on television.

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

The Panel noted the advertiser’s response that the intent of the advertisement is to normalise conversation and depictions of menstruation.

The Panel first addressed some complainants’ concerns that were not an issue under the Code of Ethics.

The Panel noted complainants’ concerns that the advertisement’s subject matter and visuals are distasteful and not appropriate for a television advertisement. Specifically the Panel noted concerns that advertising in a manner which depicts blood is “disgusting” and “gross”. The Panel noted that advertisers are free to use whatever images and phrases they wish in an advertisement provided that such images or phrases do not breach any section of the Code. The Panel considered that some aspects of the imagery in the advertisement may be off-putting and noted that some complainants were upset that the advertisement had aired during family viewing times. Overall however, the Panel noted that the issue of taste falls outside of the Code therefore the Panel is unable consider this aspect of the complaints when making its determination.

The Panel then considered issues which are under the Code.



The Panel noted complainants' concerns that the depiction of bodily fluids was unnecessary. In particular, the Panel noted comments that advertisers don't use faeces and mucus to advertise toilet paper and tissues. The Panel noted that its role is to consider the content of advertisements, not hypothetical scenarios. The Panel noted that, of itself, the depiction of body fluids is not against the provisions of the Code, but did consider this aspect of complaints under Section 2.6 of the Code.

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray 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.'

The Panel noted the Practice Note to Section 2.1 of the Code which provides the following definitions:

"Discrimination – unfair or less favourable treatment
Vilification – humiliates, intimidates, incites hatred, contempt or ridicule".

The Panel noted the complainants' concerns that the advertisement is offensive to women by publicising a private matter.

The Panel considered that the complainants' overall concerns appeared to relate to the topic of menstruation being raised at all, and that such a reference to a matter which some women wish to remain private is offensive.

The Panel considered that of itself, the topic of menstruation is not discriminatory or vilifying even though some members of the community would prefer not to have this type of issue discussed publicly.

The Panel considered that the women in the advertisement are depicted in realistic scenarios. The Panel noted that one woman is shown rinsing her bloodied underpants in the shower, while another is shown curled up in pain and crying. The Panel considered that there is no negative language or imagery in the advertisement that implies that that woman, or women in general, should be embarrassed about menstruation or that a woman who is menstruating is a lesser person, but rather the advertisement suggests a theme of camaraderie among women and that the advertiser supports all women.

The Panel considered that the advertisement does not depict the women in the advertisement or women in general in a manner that is unfair nor in a manner that would be likely to humiliate or incite ridicule.

The Panel determined that the advertisement does not discriminate against or vilify a person or section of the community on account of gender and did not breach Section 2.1 of the Code.



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 then noted complainants' concerns that the depiction of blood in the advertisement is graphic and confronting.

The Panel noted that there are no violent scenes in the advertisement, and considered that the amount of blood depicted in the advertisement is not excessive or disproportionate. The Panel considered that the depiction of blood in the context of the advertisement for feminine hygiene products, while not often shown when advertising this type of product, is justifiable in the context of an advertisement for feminine hygiene products.

The Panel considered that the advertisement 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 noted the Practice Note for the Code states:

"Images which are not permitted are those which are highly sexually suggestive and inappropriate for the relevant audience. Explicit sexual depictions in marcomms, particularly where the depiction is not relevant to the product or service being advertised, are generally objectionable to the community and will offend Prevailing Community Standards."

The Panel considered whether the advertisement depicted 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 noted the scene showing two women on a bed together wearing t-shirts and underpants and considered that there is no sexualised element to their portrayal. The Panel considered that the depiction of the women in the shower scene, toilet scene and bedroom scene were not depictions of sexual intercourse, sexual stimulation or suggestive behaviour and that the advertisement did not contain sex.

The Panel considered whether the advertisement depicted 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 advertisement contained depictions of sexuality as menstruation is directly related to matters such as sexual maturity and reproduction.

The Panel considered whether the advertisement contained nudity and 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 factor when considering whether an advertisement firstly contains nudity and secondly treats that nudity with sensitivity to the relevant audience.

The Panel considered that the two women in the advertisement are portrayed in a state of undress in the shower scene and toilet scene, but noted that only their bare legs were visible. The Panel considered that most members of the community would not consider the depiction of women's legs to be a depiction of nudity. The Panel noted the scene showing two women on a bed together wearing t-shirts and underpants, and considered that some members of the community may consider a person in underwear to be a depiction of partial nudity.

The Panel considered whether the advertisement treated the issue of 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 considered that the requirement to consider whether sexuality and nudity are '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 complaints that the advertisement was aired at a time that was inappropriate for the broad audience. The Panel considered complaints that the advertisement had taken away the power of parents to prepare and plan for a conversation about menstruation and that the topic was inappropriate for young children.

The Panel considered that the topic of menstruation is a personal matter for many women, and considered that airing the advertisement during family viewing time when women may be with their partners, children or parents, forces the topic to the forefront and may cause embarrassment and emotional distress.



However, the Panel considered that the advertisement is communicating an important social message and promoting equality and the de-mystification of menstruation. The Panel noted that the advertiser is a commercial company but considered that an advertiser whose main business is feminine hygiene products is well placed to champion such a message.

The Panel noted that some complainants' considered that their children were too young to view the advertisement. The Panel noted that the average age for a girl to begin menstruation is 12, but that studies show that that age is reducing and that some girls start menstruation as young as 8.

The Panel considered that the advertisement is broadcast during family viewing times and it is unlikely that children will see the advertisement on their own. The Panel noted information on the website <https://www.betterhealth.vic.gov.au> that many children have questions about sexual reproduction during primary school, and considered that this advertisement may provide a good conversation starter for children who are watching with their parents.

The Panel considered that although the topic of menstruation or an implied message about sexuality may make some members of the community uncomfortable, the advertisement depicted material in a manner that is sensitive to the relevant broad audience which would likely include children.

The Panel determined that the advertisement did not breach Section 2.4 of the Code.

The Panel considered whether the advertisement was in breach of Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Panel considered that the advertisement is in the context of promoting feminine hygiene products, and noted that there is no depiction of people disposing of sanitary items in an unsafe or unhealthy way.

The Panel considered that the depiction of blood in the context of an advertisement for feminine hygiene products is not against prevailing community standards on health and safety. The Panel noted that the depiction is an accurate presentation of a real physical occurrence.

The Panel noted that although some members of the community would prefer not to see bodily functions displayed on television, it was not a depiction which could be found to breach the Code and its depiction in an advertisement which would be viewed by a broad audience including children is not inappropriate.

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaints.