



Case Report

1	Case Number	0305/15
2	Advertiser	Universal Pictures
3	Product	Entertainment
4	Type of Advertisement / media	TV - On Demand
5	Date of Determination	26/08/2015
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

This advertisement was aired via on-demand TV and features scenes from the forthcoming movie, Trainwreck. The scenes included the main character engaging in sexual activity with a man, discussing articles for a magazine (anal sex and the taste of semen) and using the 'F' word on a number of occasions.

THE COMPLAINT

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

The ad strongly suggested that the female lead of the movie had a 'problem with monogamy' and showed her in bed with many different men.

In one scene we saw her sitting on a bed with a naked man in front of her looking at his penis. The ad also included her saying what certainly sounded like 'have you ever fucked anyone before'.

I was watching Masterchef with my 4, 6 and 8 year olds - this ad was totally inappropriate for them to see. It was only showed once in the whole hour of ads accompanying the show.

THE ADVERTISER'S RESPONSE

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

The complainant outlines they were offended by the content in the TVC and that it was inappropriate to be seen by their 4, 6 and 8 year old daughters. We can confirm that the TVC adhered to all legal requirements by showing the MA15 + classification on screen for the correct amount of time. The TVC was also skip-able after 30", giving the viewer the option to exit the ad. The content was approved for broadcast by the publisher. This TVC is no longer being broadcast for TV or available on catch up TV.

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 sexual images and strong language and is not appropriate for airing during the Masterchef program as children can view it.

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 that this advertisement was viewed via on-demand television on the internet and features scenes from the upcoming movie, Trainwreck.

The Board first considered the relevant audience. The Board noted that Freeview is not a broadcaster and that CAD ratings are not required for advertisements aired during television shows viewed via on-demand television. The Board noted that the advertisement was aired during Masterchef and considered that this program is directed at families and would likely include children amongst the viewers.

The Board noted the complainant's concern about the scene featuring a naked man being questioned about the size of his penis.

The Board noted that we do not see the man's penis but considered that the level of nudity – a man's naked buttocks – was strong. The Board noted that the woman asks the man if he has "ever fucked someone with that before" and considered that this reference to the size of the man's penis and any sexual activity he may have had previously is explicit and in the context of a scene between a woman in a bed and a naked man next to her, the suggestion of sex is strong.

The Board noted that in a later scene in the advertisement the woman is shown in bed with a different man and considered that their actions are consistent with sexual intercourse. The Board noted the woman asks the man to talk dirty to her and the man's reaction is talk about himself, resulting in his ejaculation. The Board considered that this scene presents sexual activity in a manner which is explicit.

The Board noted another scene where the main female character's boss says she likes her

pitch for a magazine article on “Anal. Test her waters” and considered that this reference to a sexual practice is strong. The Board noted that another woman is then asked to research whether garlic makes semen taste any different and considered that again, this reference is strong.

The Board noted that this advertisement is for a movie and considered that whilst the scenes used in the advertisement are relevant to the advertised product, in the Board’s view the relevant audience would be a broad range and would include children and families. The Board noted the advertiser’s response that the advertisement could be skipped after thirty seconds. The Board noted that a number of scenes containing sexually charged content were shown in the first thirty seconds of the advertisement and considered that the scenes outlined above did not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children.

The Board determined that the advertisement did breach Section 2.4 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided”.

The Board noted that the ‘F’ word is used on a number of occasions during the advertisement, specifically when the main female character asks a man if he has ever “fucked anyone”, and asks her sister if sleeping with her husband is “like fucking a LL Bean catalogue”. The Board considered that the use of the ‘F’ word in these scenes is sexualised and strong. The Board noted that the main female character also says “Fuck you” after witnessing a surgical procedure and considered that the use of this phrase is also strong.

Overall the Board considered that the use of the words ‘fuck’ and ‘fucking’ would be considered strong or obscene by most members of the community.

The Board determined that the advertisement did breach Section 2.5 of the Code.

Finding that the advertisement did breach Sections 2.4 and 2.5 of the Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The red band trailer was removed within 48 hours and replaced by the green band trailer. The campaign is no longer being broadcast and no longer available on catch up TV.

