



## Case Report

|   |                               |                            |
|---|-------------------------------|----------------------------|
| 1 | Case Number                   | 0307/14                    |
| 2 | Advertiser                    | Ashley Madison - Avid Life |
| 3 | Product                       | Sex Industry               |
| 4 | Type of Advertisement / media | TV - Free to air           |
| 5 | Date of Determination         | 27/08/2014                 |
| 6 | DETERMINATION                 | Dismissed                  |

### ISSUES RAISED

- Other Social Values
- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general

### DESCRIPTION OF THE ADVERTISEMENT

Commercial starts off with a man is singing that he is looking for someone other than his wife. He is on the Ashley Madison website on his computer. It next cuts to another man that appears to playing his guitar while singing. Upon closer review you realize he's on the Ashley Madison website on his tablet. Then it cuts to dozens of men singing the same song.

### THE COMPLAINT

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

*Advertising of the disgraceful act of cheating on your marriage partner is disgusting and should not be condoned on television or anywhere else for that matter.  
Because I don't think its right to advertise alternatives to married people. Of course there are people who are interested in this sort of thing and they are welcome to search one of millions of websites if they need this kind of organisation. But to allow this kind of advertising to play in the home of every tv owner and to disrespect wives and honest marriages and to set this kind of example to future generations is downright disgusting and wrong. This is clearly not appropriate broadcasting at any time of the day or night and the advertisement should be directed to other places.*

*It is purely for men to find a companion with, who is not your wife. I feel it is highly immoral, as it tells guys where they can find someone to have an affair with.*

*An advertisement promoting/encouraging adultery is not in line with community standards. I was highly offended by the promotion of adultery on commercial television as it does not align with my personal values or what I believe to be the majority values of the Australian community.*

*I object to this advertisement as it promotes and sells adultery and fornication to married and unmarried men. I am also offended as I was watching TV with my husband at the time the advertisement was aired.*

*Morally wrong, promoting infidelity, affairs are not illegal but this should not be promoted on public television.*

*This ad is extremely demeaning towards women and is promoting cheating on your wife as a funny event and they have even made a "song" to try to make it memorable. In a time where marriage is becoming a joke of an institution and people everywhere are justifying cheating and getting divorced for any excuse, this is unacceptable. I don't care what time of day or night it is on, please get rid of it. I get that it's freedom of speech and their right to advertise but this ad is blatantly derogatory to women by saying it's ok to cheat on your marriage and keep secrets.*

## **THE ADVERTISER'S RESPONSE**

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

*Ashley Madison ("AM") is in receipt of a letter from the Advertising Standards Bureau ("ASB") regarding several unnamed complaints received by the ASB concerning Ashley Madison's "Wife\_No Tag" commercial (the "AM Advertisement").*

*Please note that AM is familiar with the AANA Code of Ethics, having conducted several different advertising campaigns in Australia, and understands the parameters that advertisers need to operate within. However, AM respectfully disagrees with the complaints, and asks that the ASB dismiss it at the forthcoming meeting of the Board.*

*Section 2.4 of the Code of Ethics states: Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience. We respectfully believe that this commercial accomplishes this. There is absolutely no nudity, no reference of sex or sexuality, nor any sexual/physical contact between the actors in the spot. Due to the "S" rating received by CAD, the spot only runs after 11:00 pm. This commercial is in line with, and in fact substantially less provocative, than other Australian spots that contain an "S" rating.*

*The referenced AM Advertisement does not discriminate on any basis, nor does it exploit, condone or elicit any unlawful behaviour whatsoever. Moreover the AM Advertisement does not generalize, degrade, exploit or disparage either gender, and it does not offend the standards of public decency prevailing amongst a significant segment of the population. It is not sexist at all, and it does not vilify either gender.*

*The AM Advertisement also does not present aggressiveness or violence in any way whatsoever. The AM Advertisement utilizes an over-the-top jingle to further emphasize the "humorous" nature of our commercial. We also do not use any obscene language in the AM Advertisement.*

*Moreover, and importantly the AM Advertisement does not exploit sex and sexuality. AM takes necessary steps to ensure that its advertisements (including the AM Advertisement in*

*question) are aired at appropriate times given its target audience. AM has complied with the Code as it relates to potentially sensitive content and sexual innuendo.*

*AM understands that its brand/business, is not for everyone. However, while we understand that there is a subjective element to one's "tastes", the AM Advertisement objectively complies with the letter of the Code, and the intent and spirit of the Code. There is nothing unlawful about the AM business, nor is there anything unlawful in the AM Advertisement. We trust that this addresses the complainant's concern. Ashley Madison would like to thank the ASB in advance for its consideration of our response. We look forward to hearing from you and continuing to work co-operatively with the ASB and its Board.*

## **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 complainants' concerns that the advertisement is sexist and offensive in its encouragement to men to seek an affair and that the images of women used are inappropriate.

The Board noted that the majority of complaints were about the service and the fact that the service can be advertised. The Board noted that there is no restriction on such a service being available or on it being promoted, rather only on how it is promoted. The Board considered that the promotion of affairs or infidelity is not of itself a matter that can be addressed by the Code.

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

The Board 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 Board noted the advertisement features men singing about wanting someone other than their wives.

The Board noted the complainants' concerns that the advertisement is sexist in its encouragement to men to cheat on their wives.

The Board noted that Ashley Madison offers a service whereby people seeking an affair can contact other like-minded people and considered that whilst this advertisement is promoting the service from the point of view of a man seeking a female partner in the Board's view there must also be women signing up for the service if they are to be available for the men.

The Board considered that whilst many members of the community would find the promotion of infidelity to be inappropriate and morally questionable in the Board's view the advertisement itself does not portray or depict material in a way which discriminates or vilifies a person or section of the community on account of their gender.

The Board determined that the advertisement did not breach Section 2.1 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 that it had previously dismissed an advertisement for the same advertiser in

case 0257/10 where:

“The Board noted that the advertisement depicts a man and woman kissing and embracing and that the kiss is fairly intimate. The Board considered however that the depictions were relevant to the product advertised and, although sexualised, were not explicitly sexual. The Board considered that this level of sexualised behaviour was appropriate for viewing in a late night time-zone. The Board considered that the theme of the advertisement – an affair – very explicitly was not appropriate for viewing by children and noted again the late night classification of this advertisement.”

In this instance the Board noted that whilst images of different women are shown on an i-pad the advertisement does not depict any actual physical contact between the men and women. The Board noted that the images of women feature several depictions of women’s cleavage. The Board noted that this advertisement had been rated ‘S’ by CAD and considered that the level of nudity is relatively mild, the women are not in overtly sexualised poses and overall the images are not inappropriate for the relevant adult audience.

Consistent with its previous determination the Board noted that the theme of the advertisement is not appropriate for children but considered that the ‘S’ rating meant that the advertisement would be aired in programming between 11pm and 5am when young children are unlikely to be watching television.

The Board acknowledged that most of the complaints are related to a moral objection to the product itself but considered that the actual content of the advertisement does treat the issue of sex, sexuality and nudity with sensitivity to the relevant adult 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 complaints.