



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0313-19
2. Advertiser :	ContextLogic
3. Product :	Other
4. Type of Advertisement/Media :	App
5. Date of Determination	25-Sep-2019
6. DETERMINATION :	Upheld - Not Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This advertisement which appeared on an app featured an image of two different products available to buy. The first were Harry Potter socks and the second was an adult product with a small image of a woman in a leather corset on her hands and knees, the words "Auto such Masturbator", "Sexual moans" "Auto suck" and "body temperature" and an image of a hand holding the product.

THE COMPLAINT

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

Weatherzone App should be child friendly and not include unavoidable ads for adult erotic toys. It is also impossible on this app to 'hide' the ad and mark it as irrelevant or inappropriate

I contacted Weatherzone and Wish immediately with my concerns.

Wish doesn't seem to understand the issue, and Weatherzone haven't bothered to respond



THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response.

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 was inappropriate for children.

The Panel viewed the advertisement and noted the advertiser did not respond.

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 considered whether the advertisement contained 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 that this advertisement is for socks and a male masturbatory aid. A woman is depicted from the side on all fours in a bodysuit with her bottom half bare. Also depicted is a white tube product and text including "Auto Suck Masturbator" and "Sexual Moans". The Panel considered that the person depicted in the advertisement did not appear to be engaged in sexual activity of any kind. The Panel considered 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 for the application of the term in the Code, the use of male or female actors in an advertisement is not of itself a depiction of sexuality.

The Panel considered that the product depicted in the advertisement is used for sexual purposes. The Panel considered that the depiction of the woman on all fours in



conjunction with the product and text was sexual. The Panel considered that the advertisement did depict sexuality.

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 a factor when considering whether an advertisement treats nudity with sensitivity to the relevant audience.

The Panel considered that the depiction of the woman’s bare bottom is a depiction of nudity.

The Panel considered whether the advertisement treated the issue of sexuality and nudity with sensitivity to the relevant audience.

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 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 is ‘sensitive to the relevant audience’ is a concept requiring 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 concept of how subtle the nudity is or might be is relevant to the Panel considering how children, and other sections of the community, might consider the advertisement.

The Panel noted that this image appeared as an advertisement on the Weatherzone app. The Panel considered that the relevant audience for this advertisement is most likely to be predominately adult. The Panel considered however that many people view this app during their commute or at work, and that the explicit content within the advertisement depicting a woman’s mostly bare bottom and a masturbatory aid, as well as sexually explicit text, would be considered by most members of the community to be inappropriate for a broad audience.



The Panel considered that the advertisement did not treat the issue of sexuality and nudity with sensitivity to the relevant audience and determined the advertisement did breach Section 2.4 of the Code.

Finding that the advertisement breached 2.4 of the Code, the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advertiser has not provided a response to the Panel's determination. Ad Standards will continue to work with the advertiser and other industry bodies regarding this issue of non-compliance.