



Ad Standards Community Panel
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Case Report⁰⁰²⁰

1. Case Number :	0322-20
2. Advertiser :	Mosh
3. Product :	Health Products
4. Type of Advertisement/Media :	TV - Pay
5. Date of Determination	11-Nov-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This Pay TV commercial is set in the footy locker room, featuring a half-time team talk from a coach. He's seen encouraging his players, "C'mon guys. It's time to lift. You're just not performing like you used to. I mean, where have you been lately? Not here."

The camera then pans to a wide shot of the changeroom with men in inflatable phallic-like costumes sitting around the coach.

One of the costumes deflates. Super comes over to read "Having some issues in the bedroom? Get Mosh."

Scene switches over to a presenter in a studio, who says:

"At MOSH, we're all about men's health made easy. Chat to Aussie doctors to treat sexual health, hair loss, skincare and mental health. It's all online, discreet and affordable. Plus, your treatments get delivered to your door, right doc?"

Animated cartoon characters are shown for each of the health issues mentioned including a male who winks while hearts appear behind him, a man whose hair grows, a man whose face gets covered in acne and a man with a black rain cloud hanging over his head.

The camera then zooms into a doctor on an iPad that the presenter has been holding and a doctor says, "that's right".



THE COMPLAINT

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

My 12-year-old daughter watches the footy with me. We're trying to encourage young girls to engage in footy, in fact all young kids. They should not be subjected to ads featuring inflatable penises and comments about not performing in the bedroom and helping sexual performance. This is not appropriate advertising for children's viewing.

not appropriate for kids. Footy is marketed by the afl as family friendly.

Inflatable penises on ads during afl finals when lots of Australian kids are watching a footy game is inappropriate. The as was in the first quarter ad break of the Saints Richmond game.

THE ADVERTISER'S RESPONSE

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

In addressing the complaints, it is important to first explain a bit more about Mosh and our mission.

Mosh is a men's online health clinic where men can find solutions for hair loss, sexual health, skincare and mental health. Our goal is to make men's health easy - more affordable, more accessible and more normal than ever. We connect men with accredited Australian doctors to organise tailored treatment plans and door to door medication delivery. Australian men are notorious for not seeking medical help and not prioritising their health issues. Mosh was born to change that - 1) to create a safe space to tackle more uncomfortable issues men experience and 2) to destigmatise addressing these issues.

We are unlike many hair loss or sexual health clinics that preceded us, that coerced men into buying their services out of fear or outright embarrassment. Our brand prides itself on taking an evidence-based and empathetic approach to sensitive healthcare issues.

This ethos is what created the TVC.

1) We fundamentally disagree that our TVC violates the AANA code of ethics 2.4 on Sex/Sexuality/Nudity.

Our TVC was not filmed in a sexual, sensual or suggestive way. It's far from it - there is no nudity and the costume/fancy dress is harmless. True to our brand personality, we took the good humoured approach to address a medical condition to help open the



dialogue, normalise the process of seeking help and cut through the stigma. At the end of the day, erectile dysfunction is a medical condition like any other (more common than you think), and we at Mosh want to help men get the right treatment. In fact, our psychologists often relay feedback that sexual dysfunction leads to poor mental health and, prior to Mosh, our members did not feel comfortable tackling their sexual health issues through traditional channels. This is fundamentally different from inappropriately using sex and nudity to create a crass brand identity and sell non-health related products.

2) We took appropriate steps to cater to the audience even when we were not required to.

We had long discussions with both Foxtel and Seven (Seven is responsible for selling AFL spots on Foxtel) about the most appropriate times to air our TVC. Out of the 12 AFL games our TVC aired between 18 September and 17 October, we had only one game on Sunday 20 September where our TVC was aired during the afternoon game (3:35PM start). After receiving one direct complaint, we also took it into our own hands to ensure that all the remaining TVCs aired in the night games only, well after 7:30PM.

3) The complaint the subject of this response is a minority view

The overwhelming response to our TVC was positive. In fact, many people have applauded our efforts to tackle embarrassing men's health issues in a humorous way while simultaneously opening up a dialogue around sex education.

Comprehensive sex education is important and many governments are now advising parents to talk to their children early about sexuality and sexual health. Below are a few of many useful resources and excerpts:

** UNESCO*

<https://en.unesco.org/news/why-comprehensive-sexuality-education-important>

"There is significant evidence on the impact of sexuality education. Sexuality education has positive effects, including increasing young people's knowledge and improving their attitudes related to sexual and reproductive health and behaviors. Countries are increasingly acknowledging the importance of equipping young people with knowledge and skills to make responsible choices for their lives. International Technical Guidance on Sexuality Education reaffirms the position of sexuality education within a framework of human rights and gender equality... women and girls empowerment."

This guide includes learning objectives and plans for children starting age 5. Download here:

<https://unesdoc.unesco.org/ark:/48223/pf0000260770>

** Victorian Government*



<https://www.betterhealth.vic.gov.au/health/HealthyLiving/sex-education-tips-for-parents>

"Sex education is an ongoing process – short and frequent conversations are better than the big, one-off talk."

<https://www.betterhealth.vic.gov.au/health/HealthyLiving/talking-to-primary-school-children-about-sex>

"If you are unapproachable, your child will turn to other sources of information that may not be reliable, such as friends."

** Western Australian Government*

https://healthywa.wa.gov.au/-/media/Files/HealthyWA/Original/Sexual-health/TSTO_V2.pdf

"Most parents and carers know that, just like learning how to play or talk, sexual development is a part of human development. Most parents know and believe that talking to their kids about sexual matters is important. And they are right – it does make a positive difference... Talk soon. Talk often. was developed by the Western Australian (WA) Department of Health following research that found a need for resources to support parents and families as the primary sexuality educators of their children. "

** NSW Department of Education*

<https://cpb-ap-se2.wpmucdn.com/learning.schools.nsw.edu.au/dist/c/8/files/2015/06/5.-sexualityed-fs2017acc-s0v5ui.pdf>

"This document includes information on: why we need sexuality and sexual health education in NSW schools"

** Today's Parent*

<https://www.todaysparent.com/family/parenting/age-by-age-guide-to-talking-to-kids-about-sex/>

"Experts agree that sex is something kids should always be learning about. They recommend weaving sex into everyday discussions, layering in more information over time and introducing certain concepts at specific ages. With that in mind, we've put together this age-specific guide to help you learn how to talk to kids about sex... starting before they're verbal"

4) Campaign is complete and feedback taken on board.

Our Foxtel campaign ended as of Saturday, 17 October 2020, and we will certainly take on board all feedback received on our campaign in crafting future campaigns.

Ultimately our goal is to make men's health easy - more affordable, more accessible and more normal than ever and we believe that our TVC was aired in good taste to facilitate that medical conversation and courage to seek help for many Australian men.



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 complainants' concerns that the inflatable penises and sexual themes were not appropriate at a time when children are likely view the advertisement.

The Panel viewed the advertisement and noted the advertiser's 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:

“Full frontal nudity and explicit pornographic language is not permitted. Images of genitalia are not acceptable. Images of nipples may be acceptable in advertisements for plastic surgery or art exhibits for example.”

Does the advertisement contain 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 considered that the advertisement contained references to ‘sexual health’ and ‘performing in the bedroom’ and that this was a reference to sex.

Does the advertisement contain 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 by itself a depiction of sexuality.

The Panel noted that the advertisement contains sexual references and a depiction of men in penis costumes and that the advertisement does contain sexuality.

Does the advertisement contain nudity?



The Panel 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 noted that the men in the advertisement were wearing large penis costumes. The Panel noted there was no actual nudity in the advertisement, however the men were dressed in inflatable penis costumes and the representation of male genitals may be considered by some to amount to nudity.

Are the issues of sex sexuality and nudity treated 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 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 concept of how subtle sexual suggestion is or might be is relevant to the Panel considering how some sections of the community, such as children, might perceive the advertisement.

The Panel noted that this advertisement was broadcast on Pay TV and that many of the complainants viewed it whilst watching sports programs. The Panel considered that the relevant audience for sports is broad and would include children.

The Panel noted that men’s health is an important topic that is often not openly spoken about. The Panel considered that the advertisement approached the topic in a humorous manner to engage a male audience which may otherwise not be comfortable with the topic.

The Panel acknowledged that some members of the community would be uncomfortable with the topic of sexual health being shown on Pay TV at time when children would be watching.

However, the Panel considered that the sexual references in the advertisement were not explicit and would not be understood by young children. The Panel considered that the information given in the advertisement was factual and was not overly sexual or inappropriate.

The Panel considered that although the penis costumes were recognisable, they were not realistic and would not constitute nudity that was inappropriate for a broad



audience. The Panel considered that most young children would not understand the implications of the penis deflating.

Overall, the Panel considered that the sexual health message in the advertisement was humorous and not explicit, and that the advertisement was not inappropriate for the relevant broad audience.

Section 2.4 Conclusion

The Panel determined the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant broad 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 complaints.