



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0325/15</b>
<b>2</b>	<b>Advertiser</b>	<b>Trivago</b>
<b>3</b>	<b>Product</b>	<b>Travel</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>26/08/2015</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.4 - Sex/sexuality/nudity S/S/N - sexualisation of children
- 2.6 - Health and Safety Within prevailing Community Standards

### DESCRIPTION OF THE ADVERTISEMENT

The advertisement shows scenes of New York and the Winston Hotel.

A bellboy called Jacob catches the attention of the Princess of Bólból. She takes his arm and pulls him towards the hotel bedroom. The scene hints that Jacob and the Princess of Bólból could be underneath the blankets together. The next scene shows Jacob and Princess Bólból lying in bed together, with Jacob smiling at the camera.

Jacob arrives at the room another time but the Princess is no longer there. The camera then zooms into a letter with Jacob's name, which has been placed on a sofa at the foot of the bed. Jacob is seen outside sitting on a pavement, looking sad and talking into the camera. He says: "I thought she loved me". Back in the same hotel room, the camera continuously zooms into a small part of the wallpaper, which shows a corner has been lifted up and reveals the following message: call me 3007522502 The scene cuts to a white background. The text "Hotel?" zooms to the middle of the screen.

The URL, [www.trivago.com.au](http://www.trivago.com.au), is displayed beneath.

### THE COMPLAINT

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

*The CHILD in the ad is either way too young or LOOKS way too young to be sexually active. The ad promotes young teens drinking and having sex. Even if the actor is actually 18 he looks no older than about 15. The ad is creepy and disturbing plus puts added pressure on young teens to drink and have sex in a very direct way.*

*I object to this because it appears to condone sex with what looks like a child and it is so wrong, the boy looks like he is about 13/14.*

*With Paedophilia so much in the news I find this Advertisement so close to the line with the differences in ages depicted in the advertisement. Paedophilia is not just a man's problem. What message is being sent to young boys about older woman? I don't think I'm being overly sensitive about this.*

## **THE ADVERTISER'S RESPONSE**

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

*We refer to the complaints received in relation to the trivago Knows New York advertisement. trivago GmbH (trivago) takes its responsibility as an advertiser very seriously. We are conscious at all times of ensuring that our work and advertising practices afford respect to all sections of the community.*

### *Submissions*

*We have carefully considered the AANA Code of Ethics ("Code") and assessed its provisions against the content of the advertisement. We confirm that we respectfully disagree that the advertisement breaches any part of Section 2 of the Code, specifically Section 2.4, for the reasons set out below.*

#### *2.1 – Discrimination or vilification*

*In our view, the advertisement does not portray people or depict material that discriminates against or vilifies any person or section of the community, whether on the basis of race, gender or otherwise.*

*While the advertisement does allude to a "princess and the pauper" theme, it does not portray the central protagonist (i.e. the Bellboy) as inferior or demean him in any way. Neither, the Bellboy nor the Princess treats the other in a predatory, derogatory or demeaning manner. In fact, while it may initially appear that the Princess does not have an ongoing interest in the Bellboy, the end of the advertisement reveals the Princess' wish to have further communications with the Bellboy. This echoes the earlier sentiment expressed by the Bellboy. She does not vilify him in any way. This element of the advertisement is used to illustrate trivago's intimate knowledge and in-depth experience in relation to hotels.*

#### *2.2 – Exploitative and degrading*

*The Princess' behaviour toward the Bellboy is neither exploitative nor degrading. A relationship is built from natural attraction; there is no sign of abuse or forced submission. The attraction between both characters is evidently mutual and the indication of sexual appeal is not employed in an exploitative or degrading manner in relation to the Bellboy or the Princess.*

*Depicting the Bellboy gladly complying with the advances of a woman is not degrading to men. The Bellboy is a willing participant. This neither debases the Bellboy, nor lowers him in character or quality.*

#### *2.3 – Violence*

*There are no acts of force, violence or duress in the advertisement. The Princess of Bólból takes Jacob's hand and pulls him along in a friendly and flirtatious manner.*

*While the advertisement features a thudding bedhead as a fleeting audio element, such sound is not suggestive of any sexual violence and is a commonly used tool in the advertising and media industries to imply sexual interaction without displaying any explicit nudity or visual sex scenes.*

#### *2.4 – Sex, sexuality and nudity*

*The complainants have expressed concerns regarding paedophilia and child sexualisation in the advertisement.*

*The legal age for consensual sexual interaction across Australian states and territories varies between 16 and 17 years of age (ref: Crimes Acts and Criminal Code Acts).*

*In addition, according to the United States Bureau of Labor Statistics "Labor Force Statistics from the Current Population Survey" (2013), the most populated age range for employment of baggage porters, bellhops and concierges is between 25 to 35 years and 45 to 54 years. Workers aged between 16 to 19 years represent 1.5% of the labour force for baggage porter, bellhops and concierges. It was never the intention of the advertisement for the Bellboy's age to fall below this range, but rather be situated in the more common 20 to 24 years bracket.*

*Source: [http://www.bls.gov/cps/occupation\\_age.htm](http://www.bls.gov/cps/occupation_age.htm)*

*In our view, neither of the central characters appears to be below the legal age of consent.*

*Juan Pablo Burgos, the actor who plays the bellboy Jacob in the "We Know New York" advertisement is in reality 20 years old, having a date of birth in February 1995. Florencia Macchiarola, the actress who plays the Princess of Bólból was born in May 1986. Both actors are of legally consenting age. It was never the intention of the advertisement that the Bellboy appear below the legal age of consent and that the age difference between him and the Princess be seen as extreme. In any event, the concept of a younger man and older woman is a long-standing and widely-recognised theme used in television, cinema and the music industry, and is borrowed from the well-known 1967 film, "The Graduate". The theme is not regarded as being controversial, distasteful or sinister in any way. By way of example, "The Graduate" was selected by the Library of Congress in 1996 for preservation in the U.S. National Film Registry for being, "culturally, historically, or aesthetically significant".*

*In the advertisement, Jacob is characterised as being a shy New York Bellboy who falls in love for the first time with the Princess of Bólból. His mannerisms and his appearance – shaven facial hair, traditional outfit – form part of his "awkward" and initially "unassuming" character. This contributes to his youthful demeanour, but does not indicate he is below 16 years and unaware of the situation at hand. Conversely, the Princess' confidence and appearance – her formal attire, jewellery and makeup – form part of her "majestic" and somewhat "audacious" role. Their intimacy is intended to be contradictory, but in no way paedophilic or exploitative.*

*The advertisement is not sexually explicit. The advertisement is fast-moving and consists of a number of rapid-fire scenes which are thematically relevant and intended to demonstrate the fast paced nature of their attraction and interaction, mirroring the fast-paced nature of their host city, New York. No specific focus is given to any scene displaying explicit nudity or visually explicit sex scenes.*

*Finally, the relationship is one of mutual consent. There is no indication of unnecessary force or abusive behaviour during the entire advertisement. In fact, an infatuation for the Princess develops and Jacob is devastated when he discovers she has departed (not knowing her number was left on a note under the wallpaper!). Reasonable members of the community would understand the advertiser's message to display a playful and cute scenario between two spontaneous and unique lovers, and not one of unlawful sexualisation or paedophilia.*

## *2.5 – Language*

*The language used is conversational, simple to understand and not offensive or inappropriate.*

## *2.6 – Health and safety*

*The advertisement does not depict material contrary to Prevailing Community Standards on any health and safety. In particular, there is no imagery depicting unsafe behaviour or unsafe use of any item and there are no images which are unduly frightening or distressing to any person, including children.*

*In addition, trivago is not advocating to people to imitate any behaviour exhibited in the advertisement.*

*The ASB has also indicated that the complaints may raise issues in relation to the AANA Code for Advertising and Marketing Communications to Children (Children's Code). By operation of section 3.1 of the Code, application of the Children's Code and section 2.6 of the Code (relating to health and safety) are mutually exclusive. For the avoidance of doubt, we do not consider that the Children's Code applies to the advertisement as the Children's Code applies only to advertisements that are, "directed primarily to Children", being persons aged 14 years or younger. The advertisement is clearly targeted at adults who are now, or may soon be, wishing to research accommodation options and/or book hotel accommodation. The advertisement is not delivered in any way to appeal to a Child in terms of theme, language or content, and it does not use any hallmark features of advertising to children such as child's perspective, storyline, or animated visuals. Nor has there been any suggestion that the Advertisement contravenes the AANA Food & Beverages Advertising & Marketing Communications Code in relation to Children*

*With regard to the above, we submit that the advertisement does not breach Section 2 of the Code (or, for that matter, any other section of the Code) or that it in any way offends prevailing community standards (the relevant measure under the Code). We respectfully request the Advertising Standards Bureau dismiss the complaints received against the trivago Knows New York advertisement.*

## **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 features an older woman having sex with a boy who looks under-age.

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

The Board then 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 television advertisement features a bell-boy being led into a hotel bedroom by a ‘Princess’ who then leaves him her phone number written on the wallpaper

above the bed.

The Board noted the advertisement had been rated, 'M' by CAD.

The Board noted the complainants' concerns that the bell-boy appears very young. The Board noted the advertiser's response that the actor playing the role of the bell-boy is 20 years old and that there was no intention to portray him as a younger boy. The Board noted that the bell-boy does look young but considered that he does not look under-age. The Board considered that the advertisement did not sexualise children and did not depict, encourage or condone under-age sex. The Board noted that the 'Princess' does not appear to be significantly older than the bell-boy and considered that any implied sexual liaison appears to be by mutual consent and there is no suggestion that she has forced the bell-boy in to any activity he is not comfortable with.

The Board noted the complainants' concerns that the bell-boy and the woman have sex. The Board noted that the woman leads the bell-boy into the hotel bedroom and that we see the glass of cola she ordered with her room service shaking on its tray to the sounds of thudding in the background. The Board noted that this scene implies that it is the couple on the bed which is causing the glass to shake but considered that as we don't see the couple the implication of sexual activity is not explicit and not inappropriate in the context of the relevant audience.

The Board noted that the advertisement is similar in tone to the recent movie, *The Grand Budapest Hotel*, and considered that overall the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant 'M' audience.

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

The Board then considered 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 Board noted the complainant's concern that the advertisement promotes young teens drinking alcohol and adds pressure to young teens to drink and have sex.

The Board noted that the voiceover states that the Princess has ordered a cola from room service and that we then see this drink on a tray. The Board noted that whilst we see the bell-boy holding a bottle of what appears to be champagne towards the end of the advertisement the Board considered that we do not see any beverages being consumed during the advertisement. As noted above, the Board considered that the actor playing the bell-boy does not look underage and considered overall that the advertisement does not make a link between the consumption of alcohol leading to sexual activity. The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on the responsible consumption of alcohol.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

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