



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

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| 1. Case Number : | 0327-19 |
| 2. Advertiser : | Road Safety Advisory Council |
| 3. Product : | Community Awareness |
| 4. Type of Advertisement/Media : | TV - Free to Air |
| 5. Date of Determination | 9-Oct-2019 |
| 6. DETERMINATION : | Dismissed |

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity
AANA Code of Ethics\2.5 Language

DESCRIPTION OF ADVERTISEMENT

This advertisement depicts various men telling a story. The advertisement ends with various men talking to a person in the car who wants to drive home. The final text on screen states "Real mates don't let mates drink drive".

THE COMPLAINT

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

The entire advertisement was eluding to men talking about their penises, shirts off and bare chested. Simply to end with calling one another a 'wanker' and a 'knob'. Effective campaign- Yes, but not for viewing during children's tv viewing time. Would have not issues seeing after 8:30pm

THE ADVERTISER'S RESPONSE

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



Comments are below.

CAD Rating: P rating (Parental Guidance Recommended). The commercial may be broadcast at any time of day, except during P and C programs or adjacent to P or C periods. Commercials which comply with the PG classification criteria in Appendix 1 of the Code of Practice and which contain careful presentations of adult themes or concepts which are mild in impact and remain suitable for children to watch with supervision.

*Discrimination or vilification
Not applicable.*

*Exploitative and degrading
Not applicable.*

*Violence
Not applicable.*

*Sex, sexuality and nudity
One of the advertisement's scenes is in a football change-room where a man is shown naked from the waist up. What is seen is no different to what is seen on a public beach.*

*Language
In the last five seconds of the commercial there is reference to "wanker" and "knob". Both these slang words are used not only by the target audience but characters in television programs. It is important to note that the slang words were passed by CAD.*

*Health and Safety
Not applicable.*

*Comments
Tasmanian men aged between 17 and 25 – the target audience – are 36 percent of all serious casualty crashes in which alcohol was a factor in the five years to 2018. The commercial in question is part of an anti-drink-driving campaign highly targeted to these men.*

Members of the target audience are not traditional media consumers, except for live sport, particularly AFL. The commercial has been on television since March this year and had extensive exposure in live sports programs since then (played 174 times). This has been the only complaint.



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 alluded to men discussing their penises, shirts off and bare chested, and contained inappropriate language, which was inappropriate for children to view.

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

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 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 noted the complainant’s concern that the advertisement alluded to men discussing their penises, shirts off and bare chested, and contained inappropriate language, which was inappropriate for children to view.

The Panel considered whether the advertisement depicted 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 depiction of men shirtless or in underwear is not of itself a depiction of sexual intercourse, sexual stimulation or suggestive behaviour and that the advertisement as a whole 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 the use of male or female actors in an advertisement is not of itself a depiction of sexuality.



The Panel considered that the depiction of men shirtless was not inherently sexualised, but considered that some members of the community may consider any advertisement featuring people in towels or shirtless to be sexualised.

The Panel noted a scene in which two men appear to be urinating next to each other outside, when one man looks towards the other's groin and states "can't unsee that". The Panel considered that some members of the community may consider this scene to be sexual.

The Panel noted that there is an overarching story in the advertisement which some members of the community may consider to be a tale which contains sexual references. The Panel noted phrases included "So naked", "It was tiny", "It was cold", and "What goes on tour stays on tour".

Overall the Panel determined that the advertisement did contain sexuality.

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're 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' 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 sexual suggestion 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 the advertisement received a 'P' rating by ClearAds and was aired at a time appropriate to the rating (<https://www.clearads.com.au/storage/final-clearads-handbook-version-ca12.pdf>). The Panel considered that the relevant audience for this advertisement would likely be broad and include children.

The Panel noted that the complainant had viewed the advertisement during the AFL Grand Final. The Panel considered that such an event would have a large proportion of viewers who were being targeted by the safety message and was an appropriate program to broadcast to such an audience.

The Panel considered that there was no depiction of nudity and the overall impression of the advertisement was not strongly sexualised. The Panel considered that the men in the advertisement were not posed in a sexualised manner. The Panel considered that while the advertisement may be viewed by a broad audience including children, the images themselves were not overtly sexual.

The Panel considered that the overarching story told in the advertisement may be sexual, but this implication was mild and unlikely to be understood by children. The



Panel noted that the scenes in the advertisement change quickly and it is hard to follow to storyline.

The Panel noted a scene in which two men appear to be urinating next to each other outside, when one man looks towards the other's groin and states "can't unsee that". The Panel considered that this scene is not overtly sexual and that it is unlikely that children would understand the reference to a man looking towards another's groin when their bottom halves are not visible to the audience.

The Panel considered that overall, the advertisement did treat the issue of sexuality in regards to the imagery of the advertisement with sensitivity to the relevant audience.

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 factor when considering whether an advertisement firstly contains nudity and secondly treats that nudity with sensitivity to the relevant audience.

The Panel considered the Practice Note for the Code which provides:

"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."

The Panel considered that some men in the advertisement are only wearing a towel however there are no images of genitalia. The Panel noted that these scenes are in the context of a men's locker room. The Panel noted that some men in the advertisement are shirtless, however considered that most members of the community would not consider a shirtless man to be a depiction of nudity. The Panel considered that the advertisement did not depict nudity.

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

The Panel 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 Panel noted the complainant's concern that the advertisement featured language such as "wanker" and "knob".

The Panel noted the Practice Note for Section 2.5 which states:

"Words and phrases which are innocuous and in widespread and common use in the Australian vernacular are permitted (provided they are used in a manner consistent



with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner). Examples are “bugger”, “shit”, “pissedoff”, “crap”, “bloody”, “cheap bastard”, “bum”, and “balls”. The “f” and “c” words are generally not permitted. Non verbal representations of the “f” word are also not permitted.”

The Panel noted that the words “wanker” and “knob” are not obscene words although recognised that some people in the community would consider this strong language which would not be appropriate to broadcast to children. The Panel considered however that these terms are used colloquially in the Australian vernacular. The Panel noted that the language is used towards another person in the advertisement, advising them not to drink and drive and therefore be a wanker/knob, but the Panel considered that the use is not demeaning or aggressive, but rather imploring their friend to be responsible.

The Panel considered that the use of the language was justifiable in the context of the important public safety message and is delivered in a relatable way.

The Panel considered that the language was not strong or obscene or inappropriate in the circumstances and did not breach Section 2.5 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaint.