



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0330-19
2. Advertiser :	Sydney Water
3. Product :	Other
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

DESCRIPTION OF ADVERTISEMENT

The advertisement in question shows a man training in the gym and bragging to his trainer that he's saving water by not doing his washing and that we are in drought and we all have to do our bit.

THE COMPLAINT

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

The man was naked and it's highly inappropriate to have a naked man walking across the screen suggestively Its not funny it is just suggestive and not necessary to get the point across.

THE ADVERTISER'S RESPONSE

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

Creative Overview:



As an advertiser it is not our intention to offend the viewing public. Our objective is to leverage Australian humour to create cut through about a serious subject and show people the many ways that they can save water during drought.

This creative is part of a campaign that highlights there are many different ways to save water. Creatively the advert dramatized how one could save water through showing a ludicrous and silly way to save. This itself highlighting how easy it is to actually save water.

*There is an additional TVC as part of the same campaign here:
<https://www.youtube.com/watch?v=sa36margvC0>*

The complaint is taken as a broad and personal view towards the depiction of nudity used generally in the spot. It seems to be based on a personal broad view as there is no mention of specific points that are seen as suggestive.

From the opening of the spot, the context for why the man is naked is clearly established through mentioning that he's not done any washing. This is further contextualised in the subsequent conversation where the man clearly highlights the fact we are in drought and we all need to do our bit.

In terms of the man's behaviour, there is nothing sexually suggestive as it's clear that he is training and holding a casual conversation with his trainer. The setting is in a public gym and with other customers around the space. At no point do we depict him in a scenario or in positions that could be perceived as sexually suggestive.

Research:

We conducted independent qualitative research and showed an animatic that is very similar to the final TVC spot. The people we recruited were a broad mix of ages, sex and background to provide a good representation of the people of Sydney. Within this research phase there was no feedback to suggest that anyone was offended or that the nudity was sexually suggestive or inappropriate.

Media placement:

The complaint was made after seeing the spot whilst watching The Terminal which in itself is a PG13 rated film, so we believe the ad was placed correctly given the W CAD rating.

Specific responses to code sections:

Although only section 2.4 was specifically noted for the complaint, we have provided a response to all sections within this area.

- *2.1 - Discrimination or vilification*

The spot does not pass judgement on the man's age, race or sexual orientation. He is not discriminated against in how he is being viewed or how the gym trainer is treating him. We don't believe the spot is depicting the man in any negative light.



- *2.2 - Exploitative or degrading*

The spot does not take advantage of the man's sexual appeal and provides an objective and clear reason for why he is naked. There is no suggestion that the man is not in this situation other than from his own volition and is clearly contextualised as being a way for him to try and save water. His interactions with the gym instructor are professional and there is no spoken or implied judgement from the instructor other than questioning if this is the best way to save water.

- *2.3 – Violence*

The spot does not show any hands-on contact for either actor and there is no aggressive behaviour or tone portrayed.

- *2.4 - Sex, sexuality and nudity – section for complaint.*

This spot received a W rating with CAD and our media placement has been in accordance with this. In regard to the level of nudity, we have made sure that there is a clear covered area as the man walks through the gym. The reason for the man being naked is clearly outlined and he is not shown in a sexually suggestive manner.

In specific regards to the complaint, we have ensured that there is no over-exposure but that it's clear he is naked. It would be reasonable to assume the area covered shows no more to the intended audience than a similar man in swimming trunks or shorts.

Although the spot is intended to have a humorous tone, the nakedness of the man is not simply there to gain laughs and is contextualised as his way to save water. We are showing how this particular character decided to save water.

For the broad audience this spot is aimed at, we believe there is a clear reasoning for the man being naked and at no point is he sexually suggestive of being objectified.

- *2.5 – Language*

All language in the spot is respectful and appropriate for the context of the story. There is no dialogue that could be perceived as sexually suggestive and is all in the context of what the man is doing to save water.

- *2.6 - Health and Safety*

The spot is set within a gym but at no point is there any exercises shown that could be misinterpreted and actioned causing injury.

- *2.7 - Distinguishable as advertising*

This spot is clearly a piece of advertising and has clear branding and a call to action at the end.



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 depicts a naked man in a gym and that such a depiction was sexually suggestive and inappropriate.

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 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 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 noted that the man in the advertisement is naked, but considered that there are no sexual references or suggestive behaviour in the advertisement. The Panel considered that the advertisement does not 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 noted the complainant's concern that the depiction of the naked man is inappropriate and unnecessary to make the point of the advertisement.

The Panel noted that the advertisement depicted a man walking through a gym and considered that although his buttocks and genitals are not visible, it is still clear that he is naked. The Panel considered that this is a depiction of nudity.

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

The Panel noted the Practice Note for the Code 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 noted it had previously considered a television advertisement featuring two naked people going about their day in case 0323-15, in which:

"The Board noted that this television advertisement features a mature couple going about their daily chores at home whilst not wearing any clothes. The Board noted that although it is clear the couple are naked the use of strategically placed objects, or on-screen text boxes, means that their genitals, and the woman's nipples, are covered."

The Board noted that the couple are depicted as going about normal everyday activities and considered that their actions, poses, and the situations they are in are not sexualised or intended to contain any sexual meaning."

The Board noted that the advertisement had been rated 'W' by CAD which means it would be viewed by a broad audience which would include children. The Board considered that the level of nudity depicted in the advertisement was not inappropriate for children to view."

In the current case, the Panel considered that the man's buttocks and genitals are hidden behind various gym equipment and are not visible at any point in the advertisement.

The Panel considered that the advertisement has a degree of fantasy, given that no one else in the gym besides the instructor appeared to notice the man's nudity. The Panel noted that the instructor appears exasperated, but not offended by the man's nudity.

The Panel noted that the advertisement received a 'W' rating by ClearAds (not in children's programs) 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.



Consistent with the previous case, the Panel considered that the man was shown from a distance and considered that there was no overt nudity at a level that most members of the community would find confronting or unacceptable.

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

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.