



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0336-19
2. Advertiser :	Best and Less
3. Product :	Clothing
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	23-Oct-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity
AANA Code of Ethics\2.2 Exploitative or Degrading

DESCRIPTION OF ADVERTISEMENT

This television advertisement depicts women and girls of various ages walking onto a stage, dancing, twirling and jumping as they showcase the new range of Best&Less floral dresses.

THE COMPLAINT

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

Children and a lady dancing in the advertised clothes but I found the sexual tones of the dancing of the children suggestive. Particularly where the children were caressing their bodies And the camera was taking closs ips up them

Girls dresses. Very young girls. Young ladies. Women acting seductively. Very young girls repeat.

May as well had very young girls (5) touching the fabric & moving seductively - same effect. Either go for sexy women or young girls but DO NOT MIX TOGETHER. Very clear connection between look alike models of young girl - older girl - woman selling



clothing with her suggestive body language. Sick kiddie porn. Discusted Best & Less. Not OK.

THE ADVERTISER'S RESPONSE

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

We refer to your letter dated 8 October 2019 in respect of an advertisement for Best&Less ladies' and girls' dresses.

Thank you for the opportunity to respond to the complaints received in respect of the Advertisement.

In respect of the information specifically requested, please see below:

Description of the Advertisement: The Advertisement depicts women and girls of various ages walking onto a stage, dancing, twirling and jumping for joy as they showcase the new range of Best&Less floral dresses.

Format: 30 second television commercial and a 15 second cutdown version (TVC).

Period shown: Sunday 22nd September 2019 through to Sunday 6th October 2019

Section 2 - Response addressing AANA Code of Ethics

2.1 Discrimination or vilification

We believe the Advertisement complies with this section.

2.2 Exploitative and degrading:

We believe the Advertisement complies with this section:

(a) The Advertisement does not employ sexual appeal or sexual imagery. The garments, as the products being advertised, are not revealing and are worn in the Advertisement by women and girls within a variety of age groups to highlight a range of Best & Less garments. These garments, developed for women, older girls and younger girls, are based upon similar design styles which emphasise that they are suitable and available for both younger and older customers. The models' behaviour and performances within the advertisement is interactive and fun and in our opinion is in no way exploitative or degrading.

(b) We believe the Advertisement complied with this section: further details in comments below.

2.3 Violence

The Advertisement does not present or portray violence.

2.4 Sex, sexuality and nudity



We believe the Advertisement complies with this section:

(a) The Advertisement does not contain sexual imagery or nudity.

(b) The Advertisement is concerned with adult and children's clothing and does not imply that minors are sexual beings, nor that ownership of the clothing enhances their sexuality: further details in the comments below.

2.5 Language

We believe the Advertisement complies with this section. The Advertisement does not contain strong or obscene language.

2.6 Health and Safety

We believe the Advertisement complies with this section, and all measures – in accordance with Australian laws governing Health & Safety within the industry - were complied with.

2.7 Distinguishable as marketing

We believe the Advertisement complies with this section.

Best&Less takes its advertising obligations and responsibilities to its customers seriously and, as a retailer targeting families, we are very concerned not to offend prevailing community standards. It is Best&Less' submission that the complaint should be dismissed and that no further action should be taken in respect of this matter for the reasons set out below.

In response to the concerns raised in the complaints, Best&Less respectfully submits as follows:

- it is reasonable to depict the product that is the subject of the Advertisement (in this case, Ladies' and Girls' Dresses);*
- the Advertisement is consistent with images and depictions of children advertising children's clothing and there is nothing in the Advertisement we believe the broader community would find inappropriate;*
- the Advertisement in question forms part of our latest campaign; a series of Advertisements each showcasing a range of clothing within our summer collection. The Advertisements will all feature titles reading "LOOK" and "TOUCH" as key components of the overall messaging within the commercial, designed to provoke a positive response from viewers with regards to the merchandise being offered;*
- the "LOOK" title refers to the unique styling of the garments, requiring close-up views to showcase the design, colours, surface details and patterns of the fabrics used. The "TOUCH" title refers to the quality and softness of the fabric used to create these garments as well as the tactile nature of the materials used to manufacture the products. The concept revolves around Best&Less inviting the materials to be felt, which ultimately guides the observer with regards to the quality of the product – something that seeing alone cannot do;*
- the dancing, twirling and jumping scenes within the advertisement form an important part of the commercial in order to demonstrate the flowing nature of the fabric used to construct the garments. The dancing girls featured in this commercial were unchoreographed in order to appear as comfortable, natural and unrehearsed as*



possible. They were not directed to, and we do not believe reasonable viewers would perceived them as acting in an inappropriate or sensual way;

- girls across various age groups were selected for the advertisement based purely on their on-screen performances; and the younger girls should by no means be perceived to be “lookalike” versions of the older girls (as alleged in the Complaint referenced 28/09/19). We believe this opinion as alleged is unlikely to be shared by the broader community;*
- the imagery of the children in various clothing depicting the latest style and trends at low prices are not inappropriate in the context of the product being sold;*
- the Advertisement promotes Ladies’ & Girls’ Dresses and the focus of the Advertisement is based entirely on the product intrinsic and low prices on offer at Best&Less. This is reinforced by the Voice Over which reads: “Twice the quality you imagined at half the price you’d think”;*
- none of the product worn by the children is provocative, for example, it is not minimal nor sheer or revealing. The imagery is not sexually explicit or suggestive. Again, we submit that this view is likely to be shared by the broader community;*
- the Advertisement does not sexualise children, as suggested in the Complaint. Best&Less does not believe that the children are posing or being portrayed in a manner that states or implies that children are sexual beings and that ownership of the childrenswear or enjoyment of the apparel will enhance their sexuality;*
- the Advertisement is intended to engage cost-conscious families, and the main message of the Advertisement is that clothing items that look and feel expensive can be bought at a price much lower than their perceived value at Best&Less. Again, this is reinforced by the imagery in the Advertisement depicting close-up shots of the cast touching the fabric;*
- the Advertisement is appropriate for Best&Less’ target market and would not offend the general public within the context of an advertisement for dresses; and*
- the Advertisement has been placed for broadcast in accordance with the “G” rating received by CAD:*

General “G” Definition: May be broadcast at any time except during P and C (Children’s) programs or adjacent to P or C periods. Product Description: Commercials which comply with the G classification criteria in Appendix 1 of the Code of Practice and provided the content is very mild in impact and does not contain any matter likely to be unsuitable for children to watch without supervision.

Best&Less appreciates the AS careful consideration of the complaint and trusts that it will accept Best&Less’ submission that the complaint should be dismissed.

If you have any concerns or queries about this approach or would like any further information please let us know

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 advertisement features sexualised images of minors.

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

The Panel noted that Section 2.2 of the Code states:

"2.2 Advertising or Marketing Communication shall not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people."

The Panel noted that the television advertisement features a young woman, a teenage girl and a young female child dancing together.

The Panel first considered whether the advertisement contained sexual appeal.

The Panel specifically noted complainants' concern that the children were dancing suggestively, caressing their bodies as the camera took close ups of them.

The Panel considered that while all the people in the advertisement were dancing, this was in a light hearted, swaying manner which is common when women are wearing flowing dresses and shows off the dress and the children danced in a manner that was appropriate for their age. The Panel considered that the dancing would not be considered by most members of the community to be seductive.

The Panel noted that while the females in the advertisement are shown to touch their bodies, this was in reference to touching the material as evidenced by the text on screen stating "touch" and the end voiceover stating "twice the quality you imagined". The Panel considered that they touch their hips and thighs, and that this was not depicted in a sexual manner.

The Panel considered that the children were not sexualised in any way. In the Panel's view the advertisement did not contain sexual appeal and did not breach Section 2.2 (a) of the Code.

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".

Similar to the comments above, the Panel considered that the depiction of the children were not sexualised.

The Panel considered that the children were depicted in age appropriate clothing and that there was no nudity in the advertisement.



The Panel considered that there was no sexual imagery or themes in the advertisement and the children were not depicted as sexual beings.

The Panel noted a specific complaint that the depiction of young girls in an advertisement with older women was inappropriate.

The Panel noted that the children were dressed in clothing appropriate to their age and noted the similarity between the material pattern for all the females depicted. The Panel noted that matching mother-daughter clothing is common. The Panel noted the advertiser's response that the range of age groups shown by the females in the advertisement was done to show that the products can be quite similar across age groups.

The Panel considered that the actors were all focused on showing off the dresses they are wearing which are the advertised product. The Panel considered that the children were not depicted in a sexualised manner.

The Panel considered that the advertisement did not contain sex, sexuality or nudity and did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Children's Code or the Code of Ethics, the Panel dismissed the complaints.