



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0337-21
2. Advertiser :	Pilot Mens Health
3. Product :	Health Products
4. Type of Advertisement/Media :	Radio
5. Date of Determination	8-Dec-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification

DESCRIPTION OF ADVERTISEMENT

This radio advertisement features the voiceover:

“You can’t fix anything without the right tool. But what do you use when it’s your favourite tool that needs fixing? ED/Erectile Dysfunction affects 1 in 4 of us. Which is why over 100,000 Aussie blokes use Pilot. Pilot.com.au connects men all over Australia with local doctors, who can prescribe best-in-class ED treatment online. Pilot even delivers direct, in discreet packaging. Start your consult today at Pilot dot com dot a-u, the men’s health toolkit.”

THE COMPLAINT

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

I object to the words “favourite tool” implying a penis is a mans favourite tool is disgusting and quite derogatory to males as if the only thing a man with erectile dysfunction thinks about is his “tool”. The whole ad reeks of sneakiness and making sex sound grubby.

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 on behalf of Ad Standards dated 19 November 2021 enclosing a complaint relating to one advertisement for Pilot Technologies Pty Ltd (Pilot) on radio. The script for the advertisement is reproduced at the end of this response.

In short, this advertisement employs a light-hearted tone in order to deal with a common medical condition in a sensitive manner.

In our view, the complaint may engage sections 2.1 and 2.4 of the AANA Code of Ethics (Code); this response therefore deals with both provisions in the interests of completeness and for the benefit of the consideration of the Ad Standards Community Panel (Panel).

Section 2.1: Discrimination or vilification on the basis of gender

Section 2.1 of the Code provides that advertising “shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of [...] gender”. The AANA Practice Note published 1 February 2021 (Practice Note) elaborates on the intention behind this section, stating relevantly that:

Humour

A negative depiction of a group of people in society may be found to breach Section 2.1, even if humour is used. The depiction will be regarded as a breach if a negative impression is created by the imagery and language used in the advertisement of a person or group of people on the basis of a defined attribute listed above. Advertisements can humorously or satirically suggest stereotypical aspects of a group of people in society provided the overall impression of the advertisement does not convey a negative impression of people of that group on the basis of one or more of the attributes listed above.

Gender stereotypes

Harmful gender stereotypes are unacceptable because they perpetuate unconscious bias and rigid norms of femininity and masculinity that shape what it means to be a girl, woman, boy or man.[...]

Advertisements for services or activities only available to one gender are legally able to be advertised and highlighting this key feature in advertising does not amount to discrimination or vilification.

Nothing in this rule is intended to prevent ads from featuring:

- one gender only;*
- products designed or made for one gender featuring only that gender (eg tampons, breastfeeding products);*
- gender stereotypes as a means to challenge their negative effects.*



Far from promoting harmful gender stereotypes, this advertisement seeks to reduce stigma associated barriers by addressing a condition which many men consider embarrassing. While the Medical Journal of Australia has reported that at least 25% of men experience erectile dysfunction (ED) [1], only 30% of men with moderate or severe ED discuss their problem with a health professional (therefore, the figure is likely to be even higher when men experiencing mild ED are taken into account) [2].

In other words, the advertisement seeks to promote the very opposite of the stereotype that ED is either a rare condition or one which warrants shame.

The complaint centres on the use of the term “favourite tool” to describe a penis, asserting that this implies “a penis is a man’s favourite tool [which] is disgusting and quite derogatory to males as if the only thing a man with erectile dysfunction thinks about is his “tool””. However, when viewed in the context of the entire advertisement, it is clear that this term is intended as a playful metaphor in response to the phrase “you can’t fix anything without the right tool” at the beginning.

Again, the advertisement employs humour to seek to normalise a real medical condition and to deal with it in a sensitive manner. If in doing so it features gender stereotypes, then that is clearly “as a means to challenge their negative effects” as squarely contemplated by the Practice Note.

In our submission, therefore, the advertisement does not contravene section 2.1 of the Code.

Section 2.4: Sex, sexuality or nudity

Section 2.4 of the Code provides that “advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience”. The Practice Note elaborates on this provision as follows:

Section 2.4 prohibits the harmful use of sex, sexuality or nudity in advertising and requires that such content must be appropriate for the relevant audience. Images that are considered harmful and which are not permitted are those which are overtly sexual and inappropriate having regard to the relevant audience.

In its most indirect sense, this advertisement “uses” sex by alluding to it through the reference to erectile dysfunction. The complaint implies that this use is “harmful” by “making sex sound grubby”.

On the contrary, as stated above the advertisement employs humour in order to educate men about a real (and common) medical condition. In our submission, that is the opposite of harmful.

While it is inevitable that some members of the community may, for a variety of reasons, prefer for companies such as Pilot not to advertise their products at all, the



relevant question is instead whether their advertisements are sufficiently cognisant of their context, audience and prevailing community standards (as required by section 2.6 of the Code).

It would be extremely surprising if, in 2021, prevailing community standards were considered to be offended by an attempt to educate Australian men about erectile dysfunction in a positive, accessible and light-hearted way.

Accordingly, this advertisement does not contravene section 2.4 of the Code.

We hope that the above information is of assistance to the Panel's consideration. We would be more than happy to provide any additional detail or clarification if needed.

[1] Weber et al, 'Risk factors for erectile dysfunction in a cohort of 108,477 Australian men' (2013) 199(2) Medical Journal of Australia 107, available at: <https://www.mja.com.au/journal/2013/199/2/risk-factors-erectile-dysfunction-cohort-108-477-australian-men> .
[2] <https://www.racgp.org.au/afp/2017/september/much-more-than-prescribing-a-pill> .

THE DETERMINATION

The Ad Standards Community Panel (Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concerns that the advertisement suggests that men with erectile dysfunction only think about their penis which is offensive and derogatory.

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

Section 2.1: Advertising or Marketing Communication shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

The Panel noted the AANA Practice Note which provides guidance on the meaning of:
Discrimination - unfair or less favourable treatment
Vilification - humiliates, intimidates, incites hatred, contempt or ridicule
Gender – refer to the attributes, roles, behaviours, activities, opportunities or restrictions that society considers appropriate for girls or boys, women or men.
Gender is distinct from 'sex', which refers to biological difference.

The Panel noted the Practice Note for this section of the Code states:



“Harmful gender stereotypes are unacceptable because they perpetuate unconscious bias and rigid norms of femininity and masculinity that shape what it means to be a girl, woman, boy or man...Advertisements for services or activities only available to one gender are legally able to be advertised and highlighting this key feature in advertising does not amount to discrimination or vilification.”

Does the advertisement portray material in a way which discriminates against or vilifies a person on account of gender?

The Panel noted that the advertisement uses the word “tool” to refer to a penis, and uses the phrase “ED” instead of erectile dysfunction. The Panel considered that this language allowed the advertisement to be played in a broader timeslot as the language is not graphic or explicit, as well as being sensitive towards that broad audience.

The Panel noted that “tool” is a common colloquial way to refer to a penis, and considered that a suggestion that it may be a persons favourite tool does not imply that men only think about their penis, or sex, nor does the advertisement state that they do.

The Panel considered that most members of the community would not find a reference of something being a “favourite” to be suggesting that a person cares about that thing to the exclusion of all else and thinks about nothing else.

The Panel considered that the content of the advertisement did not show men to receive unfair or less favourable treatment, and did not humiliate, intimidate or incites hatred, contempt or ridicule of men.

Section 2.1 conclusion

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender and determined that the advertisement did not breach Section 2.1 of the Code.

Conclusion

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