



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

**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	Case Number	0342/18
2	Advertiser	Reckitt Benckiser (Aust) Pty Ltd
3	Product	Toiletries
4	Type of Advertisement / media	TV - On Demand
5	Date of Determination	08/08/2018
6	DETERMINATION	Upheld - Modified or Discontinued

## ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

## DESCRIPTION OF THE ADVERTISEMENT

This TV on demand advertisement depicts s a couple together in the outdoors, followed by a close up of the product with the super “9 out of 10 agree sex is better with a gel”. The digital advertisement then closes with a range shot of the full Durex Lubricant range.

## THE COMPLAINT

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

*Inappropriate advertising during a programme suitable for children under 12 years of age*

*Given that this show (Australia Ninja Warrior) is a family orientated show, I don't think it is appropriate that an ad for sex lubricant is on during it.*



*I was watching Britain's got talent with children under 10 years old, this is family show not one to have lubricant ads and having "sec is better with a gel" said and written on screen I was appauled and it occurred 5 times I had to send my kids on little jobs everytime the ads came on since on 8 now you can not fast forward an ad!! As said in my message to 9 news I hold the remote there's few comedy acts and magician acts I fast forward that the kids don't need to see but to not be able to fast forward an inappropriate ad was horrible it was not the time or place for such an ad!! My response from 9 now was that they would pass on to find the ad and not place it during G and PG shows, the idea they didn't already have it censored made me concerned of other shows the kids watch when I may not be watching with them. I felt it needed reporting so it doesn't need occur again*

## **THE ADVERTISER'S RESPONSE**

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

*RE: Response to Complaint Reference Number – 0342/18*

*We acknowledge receipt of the letter dated 25 July 2018 from Ad Standards notifying RB of complaints received by you on 23 July 2018.*

*The digital advertisement is an online video showcasing the Durex Naturals Intimate Gel, with the aim of normalising the use of lubricants to help improve sexual wellbeing. The digital advertisement showcases a couple together in the outdoors, followed by a close up of the product with the super "9 out of 10 agree sex is better with a gel". The digital advertisement then closes with a range shot of the full Durex Lubricant range.*

*RB does not consider it has breached the provisions under section 2 of the AANA Code of Ethics. Given we are advertising a sexual wellbeing product, we note that there are visible graphics denoting sexuality and nudity however, do not consider it to be a breach of clause 2.4. All other clauses are considered not to be in breach and thus we have not included these clauses in our response.*

*We note that the digital advertisement has only been aired on digital, catch up TV, posted on digital sites and platforms; therefore, this would be considered excluded from the AANA Codes per clause 2 of the Industry Practice Note.*

*RB takes these matters seriously and we would not intentionally engage in activity that would in any way be seen as breaching an ethical code. We regret that there have been complaints about our digital advertisement and can confirm that we have taken precautionary measures with our media agency, Zenith Optimedia, to ensure the*



*digital advertisement is only run after the hours of 8:30pm.*

*We trust this will alleviate the concerns of the complainant. Please do not hesitate to contact us if there is anything else we can clarify.*

## **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 reviewed the advertisement and noted the advertiser’s response.

The Panel noted this TV on demand advertisement depicts a couple in various outdoor setting, followed by a close up of the couple with their faces together with the super “9 out of 10 agree sex is better with a gel”. The advertisement then closes with a range shot of the full Durex Lubricant range.

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 the complainants’ concerns that the advertisement was not appropriate to be seen by children.

The Panel noted that the complainants in this case viewed the advertisement while watching Australian Ninja Warrior and Britain’s Got Talent respectively, and that both of those programs were classified PG. The Panel noted that TV-On-Demand does not have the same rules as Free-to-Air TV in regards to advertisement classification, but considered that the Code still requires the Panel to consider the audience to which the advertisement is broadcast or published.

The minority of the Panel considered that the advertisement is not overly explicit and does not show any sexualised imagery between the couple. The minority noted the Practice Note that states “the use of the word ‘sex’ does not, of itself, make an advertisement unacceptable”. The minority of the Panel considered that the advertisement presents a message about normal adult behaviour in an only mildly sexualised way.

However, the majority of the Panel considered that the images of the couple in the advertisement are not sexualised, however the advertisement uses the word and text “sex” four times, and in the context of having sex. The majority of the Panel considered that this makes the advertisement very clearly about sex, and in the Panel’s view is not sensitive treatment of sex to an audience that includes children.



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

Finding that the advertisement did breach Section 2.4 of the AANA Code of Ethics, the Panel upheld the complaints.

### **THE ADVERTISER'S RESPONSE TO DETERMINATION**

We acknowledge receipt of the Case Report dated 10 August 2018.

As noted in our previous response letter, RB has taken precautionary measures to ensure our media agency, Zenith Optimedia, only runs this advertisement after the hours of 8.30pm

RB takes these matters seriously and we would like to reiterate that we would not intentionally engage in activity that would in any way be seen as breaching an ethical code.

We regret that there have been complaints about our digital advertisement and trust this will alleviate the concerns of the complaint.

### **INDEPENDENT REVIEWER'S RECOMMENDATION**

### **THE DETERMINATION ON REVIEW**

### **ADVERTISER'S RESPONSE TO IR DETERMINATION**

