



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0350-21
2. Advertiser :	Grill'd
3. Product :	Food/Bev Venue
4. Type of Advertisement/Media :	Internet - Social - Instagram
5. Date of Determination	8-Dec-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This Instagram advertisement features two men on a bed in boxer shorts and wearing lace masks. There is also a laptop with the Grill'd logo, and burgers are brought onto the bed.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Highly sexual advertising including visual and language.

This advertisement is totally inappropriate and is over-the-top for a commercial for a family restaurant. Kids/young teens would view this and think that this is normal behaviour. What agenda are they pushing here? Burgers or sexual fetishes?

THE ADVERTISER'S RESPONSE

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



Details of the programs in which the advertisement appears:

The Grill'd Impossible burger boosted post was promoted on Grill'd's Facebook and Instagram pages. The Grill'd Impossible burger boosted post complies with Facebook's advertising policy and was approved to run on the platform

Whether the audience of the programs is predominantly children?

The Facebook and Instagram post was boosted to an audience of 18-40 year olds across all genders. Grill'd used the Facebook Advertising age-gating to ensure the boosted audience was only users registered as 18+.

Your comprehensive comments in relation to the complaint (taking into account the need to address all aspects of the advertising codes):

1. AANA Code of Ethics

We understand the complaint has been raised in respect of provision 2.4 of the Code.

We note that provision 2.4 of the Code sets out that "Advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience."

This content film playfully parodies a camgirl scene, featuring the Impossible burger. In this film, the camera is set up in a locked shot, with both our talent sitting in front of it. The premise is that they are chatting directly to their viewers like on a social channel, with a computer in front of them. They're talking directly to their viewers and eat a Grill'd Impossible burger.

We note the complaint received expresses concern at the imagery being considered to be soft porn and a burger being sexualised. However we submit that the talent are appropriately covered throughout the entirety of the film where no buttocks, genital mounds or nipples can be seen; do not expose themselves or hint to undress; do not bring attention to their genital region or indicate towards it; do not use any sexual paraphernalia such as whips or handcuffs; do not touch each other or have any physical or suggestive interaction beyond handing a food product to one another on a plate; and the burger is never used in a sexual nature, or physically treated as derogatory or anything other than a burger product.

The intention of the content was to prove plant-based burgers can be just as juicy and saucy as the real thing. The concept uses a "play on words" to introduce the burgers and meat to the audience. As social content, the script was ad-libbed and edited as a series of outtakes, intending to entertain and make viewers laugh and engage with the video in a parody of a format and type of video that exists in online platforms and in social channels.



Accordingly, we submit that the advertisement does not breach provision 2.4 of the Code.

In respect of the remaining provisions of the Code, we submit that there is nothing else in the advertisements that would breach any other provisions.

On this basis, we submit that the boosted post does not breach the Code.

6. Conclusion

On this basis, we submit that the boosted post does not breach any relevant provision of the AANA Code of Ethics or any other relevant codes. There is no breach of any of the relevant provisions of any of the AANA codes noted above.

Accordingly, we submit that all complaints should be summarily dismissed.

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 is highly sexualised and inappropriate.

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

Section 2.4: Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code states:

"Overtly sexual depictions where the depiction is not relevant to the product or service being advertised are likely to offend Prevailing Community Standards and be unacceptable.

"Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisements for toiletries and underwear) is generally permitted but note the application of the relevant audience. More care should be taken in outdoor media than magazines, for example.

"Images of models in bikinis or underwear are permitted, however, unacceptable images could include those where a model is in a suggestively sexual pose, where underwear is being pulled up or down (by the model or another person), or where there is clear sexual innuendo from the ad (e.g. depicting women as sexual objects)."

Does the advertisement contain sex?



The Panel considered whether the advertisement contained sex. The Panel noted the definition of sex in the Practice Note is “sexual intercourse; person or persons engaged in sexually stimulating behaviour”.

The Panel noted that the advertisement depicts two men in boxers and lace masks on a bed hanging by ropes. The Panel noted that while the advertisement has a sexualized theme, the men do not engage in sex.

Does the advertisement contain sexuality?

The Panel noted the definition of sexuality in the Practice Note is “the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters”.

The Panel considered that the combination of the scene and the men’s language did amount to sexuality.

Does the advertisement contain nudity?

The Panel noted that the definition of nudity in the Practice Note is “the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity”.

The Panel noted that the men are wearing boxers however considered that the advertisement does contain partial nudity.

Are the issues of sexuality and nudity treated with sensitivity to the relevant audience?

The Panel noted that the definition of sensitivity in the Practice Note is “understanding and awareness to the needs and emotions of others”.

The Panel considered that the requirement to consider whether sexual suggestion is ‘sensitive to the relevant audience’ requires 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 Panel noted that this advertisement was a sponsored advertisement on Instagram and noted the advertiser’s response that it was targeted to people aged 18-40 and used user information to ensure the audience was registered as over 18.

The minority of the Panel considered that the advertisement being a sponsored post meant that viewers had no choice in the material being served to them, as opposed to a non-sponsored post on the Grill’d account that viewers opt in to following.



The minority of the Panel considered that the advertisement was highly sexualised and considered that the sexuality was not relevant to the burger product being advertised. The minority considered that the advertisement did breach the Code.

The majority of the Panel considered that while the advertisement was sexualised, it was an awkward and comedic parody of a webcam model scene rather than a particularly sensual or romantically sexualised scene.

The majority of the Panel considered that while it may make viewers uncomfortable, the advertisement was targeted towards over 18's and the advertisement did not contain highly sexualised imagery, only men in boxers wearing masks. The majority considered that the language used by the men features a lot of double entendres and sexual innuendo rather than being explicit.

The majority of the Panel considered that the advertisement plays on the idea of the burger being sexy and the taste being euphoric or orgasmic, and the majority considered that most adult members of the community viewing this advertisement would recognise the parody and not consider the advertisement to be promoting sex.

Overall the Panel considered that the sexual element of the advertisement was moderate and was not inappropriate for a broad adult audience.

Section 2.4 Conclusion

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.

Conclusion

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