



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0351-20
2. Advertiser :	Just.Cos Cosmetic Surgery
3. Product :	Other
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	25-Nov-2020
6. DETERMINATION :	Upheld – Modified or discontinued

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.2 Exploitative or Degrading
AANA Code of Ethics\2.4 Sex/sexuality/nudity
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This television advertisement feature several scenes of women and close up scenes of breasts. The voiceover states "Who needs eye contact? Get the breast implants you've been wishing for from Just Cos. Contact us today to find out more."

THE COMPLAINT

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

The advert focuses on the sexuality of woman and that to be sexual or considered sexy a woman must have large breasts. The voice over then goes on to say "Who needs eye contact?" explicitly implying that a woman's body is more important than anything else and that it is ok to look at a woman's breasts rather than actually engaging in conversation and making eye contact.

<https://www.facebook.com/justcosau/videos/198589981705233/>

Many young teens and women were watching, and many young females who do not need to be encouraged to question their body image any more than what I am sure they are already doing. BUT then to hear the line "Who needs eye contact?" whilst the TV screen is completely taken up by breasts falling out of a bikini top is not acceptable.



The advertisement can also be viewed on Facebook -
<https://www.facebook.com/watch/?v=198589981705233>

In the advertisement it actually says " who needs eye contact" whilst showing an image of breasts in a bra (not a full image of the lady, just her breasts). I find this very offensive and sexist as it implies that good looking breasts are more important than anything else. Especially during the unusual times this year, I think this can be quite misleading for women. Body image is huge and this ad is not helping. Also, this probably doesn't warrant a complaint, but the name of the company is offensive 'Just Cos Surgery'. There are many reasons why a woman or perhaps a transgender person may get breast implants, and I feel it should be better that 'just because'.

THE ADVERTISER'S RESPONSE

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

The persons who lodged the complaint raise several complaints including; focusing on the sexuality of women, large breasts being considered as 'sexy', breasts acting as replacement for conversation, issues with body image, bikini considered as nudity, sexist, undue importance placed on breasts compared to 'everything else' and transgender rights.

Whilst we agree the aforementioned concerns to be valid, we are unable to identify any correlation, implied or explicit within this advertisement. The persons submitting this complaint either do not understand how healthcare in Australia functions or the complaints are vexatious in nature. Breast Augmentation is not a commoditised procedure that can be undertaken as a spur of the moment decision. The complaints imply that the this highly invasive procedure can be accessed with ease and in a timely manner. This is incorrect. All Breast Augmentation procedures are only undertaken following extensive consultations with a highly qualified and experienced surgeon. In the initial consultation, patients are screened for their mental state and motivations for getting the procedure. Only patients who undertake procedures for their self confidence with a defined aesthetic end results undergo a subsequent consultations during which time the patient selects the size that is correct for her. This means, the patient is in complete control over the desired look. All patients then undergo a mandatory cooling off period prior to surgical date.

Just.Cos uses breast implants with the exceptional safety track record, private hospitals and experienced anaesthetists to delivery care for our patients. Following surgery, all patients are closely followed up for 12 months with 24X7 care accessible by an on call surgeon.

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:

- focuses on the sexuality of women and suggests that to be considered sexy a woman must have large breasts
- suggests that a woman's breasts are all that matters and looking at her face or speaking to her does not
- may encourage young females to question their body image
- suggests that people should get breast implants 'just because'.

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 - male, female or trans-gender characteristics.

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 featured women wearing bikinis, and the focus of the shots is the women's breasts. The Panel noted that the advertisement states, "Who needs eye contact? Get the breast implants you've been wishing for" and considered this is a call to action to women to purchase the product, and not a suggestion to men as to how women should be treated.

The Panel acknowledged that some members of the community would find the promotion of breast implants to be a suggestion that women without implants are deserving of less favourable treatment, however considered this is not explicitly stated or shown in the advertisement. The Panel considered that the overall impression of the advertisement is that some women would like larger breasts and that these women are happy with their choices.

The Panel considered that the women in the advertisement are not depicted in a way which humiliates, intimidates, incites hatred, contempt or ridicule of them because of their gender.

Section 2.1 conclusion

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



Section 2.2: Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people.

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised.
Degrading – lowering in character or quality a person or group of people.

Does the advertisement use sexual appeal?

The Panel noted the advertisement featured a number of women wearing bikinis and the focus of the advertisement was one the women’s breasts. The Panel considered that the advertisement did contain sexual appeal.

Does the advertisement use sexual appeal in a manner that is exploitative?

The Panel noted that the focus on the women’s breasts was directly relevant to the service being advertised.

The Panel noted the line ‘who needs eye contact’ and considered that this is a suggestion that women can be reduced to a single body part and that the rest of her is not important. The Panel considered that this is a suggestion that women can be treated as objects.

Overall the Panel considered that the advertisement did employ sexual appeal in a manner which is exploitative of the women.

Does the advertisement use sexual appeal in a manner that is degrading?

The Panel considered that the statement that women who have breast implants don’t need eye contact is a suggestion that they are objects, don’t matter as people and don’t need to be respected. The Panel considered that the advertisement did lower the women in character and quality.

The Panel considered that the advertisement did employ sexual appeal in a manner which is degrading of the women.

Section 2.2 conclusion

Finding that the advertisement did employ sexual appeal in a manner which is exploitative and degrading of the women, the Panel determined that the advertisement did breach Section 2.2 of the Code.



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:

“Images which are not permitted are those which are highly sexually suggestive and inappropriate for the relevant audience. Explicit sexual depictions in marcomms, particularly where the depiction is not relevant to the product or service being advertised, are generally objectionable to the community and will offend Prevailing Community Standards.”

Does the advertisement contain sex?

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 advertisement did not depict the women interacting with anyone or engaging in sexual activity. The Panel considered that the advertisement did not contain sex.

Does the advertisement contain 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 the use of male or female actors in an advertisement is not by itself a depiction of sexuality.

The Panel noted that the advertisement focuses on the women’s breasts and considered that this is a depiction of sexuality.

Does the advertisement contain nudity?

The Panel 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 noted that the women are wearing bikinis and that they are dressed appropriately for being at a beach or pool. The Panel noted that some members of the community would be uncomfortable with the focus on the woman’s breasts and cleavage. The Panel considered that the advertisement may be considered to contain partial nudity.

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



The Panel considered the meaning of 'sensitive' and noted that the definition of sensitive in this context can be explained as indicating that 'if you are sensitive to other people's needs, problems, or feelings, you show understanding and awareness of them.' (<https://www.collinsdictionary.com/dictionary/english/sensitive>).

The Panel considered that the requirement to consider whether the treatment of sex, sexuality or nudity 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 concept of how subtle sexual suggestion is or might be is relevant to the Panel considering how some sections of the community, such as children, might perceive the advertisement.

The Panel noted that this advertisement was on Free TV and had been given a P rating by ClearAds meaning it can be broadcast at any time of day, except during P and C programs or adjacent to P and C periods. The Panel considered that the audience of the advertisement would be broad.

The Panel considered that the sexuality and nudity in the advertisement was mild and would not be confronting to the relevant television audience.

Section 2.4 Conclusion

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

Section 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

Body image

The Panel noted the complainants' concerns that the advertisement may encourage young women to question their body image.

The Panel noted that it had recently considered a similar issue in case 0315-20, in which:

"The Panel noted that breast enhancement is a service legally available but noted that it is possible for an advertisement for this type of product to be executed in a manner that would make people feel that this is essential to achieve positive body image. The Panel considered that this advertisement makes no references or statements other than the price of the product/service and the advertiser name. The Panel noted that the advertisement does not imply that all women with a small bust should have surgery, or that they are somehow lesser for not having breast augmentation. In the Panel's view most members of the community would be unlikely to view the context of this advertisement for breast surgery as promoting negative or unsafe body image."

In the current advertisement the Panel noted that the voice over states, 'get the breast augmentation you've been wishing for' and considered that this is a suggestion



that this deal would be attractive to people already considering breast augmentation. Similar to the previous determination the Panel considered that the advertisement does not imply that all women with a small bust should have surgery or that they are somehow lesser for not having breast augmentation.

In the Panel's view most members of the community would be unlikely to view the context of this advertisement for breast surgery as promoting negative or unsafe body image.

Promotion of breast augmentation as quick and easy.

The Panel noted the complainants' concerns that the advertisement may encourage young females to question their body image suggests that people should get breast implants 'just because'.

The Panel noted that the advertiser's name is 'Just Cos' surgery and that this does suggest that decisions about getting surgery can be made flippantly. However, the Panel considered that the name of a business is not within the Panel's jurisdiction and that the name alone does not amount to a breach in the Code.

The Panel considered that the overall advertisement does suggest that that breast augmentation is easily obtainable.

The Panel noted the advertiser's response that breast augmentations can only be undertaken after extensive consultations and are not something which can be undertaken as a spur of the moment decision. The Panel considered that this is not apparent from the advertisement, nor does the advertisement contain any warnings that there are potential risks for the patient associated with surgery.

However, the Panel considered that the content of the advertisement itself did not contain material which most members of the community would find to be unhealthy or unsafe in the context of promoting a service which is legally able to be advertised.

Section 2.6 Conclusion

The Panel considered that the advertisement did not contain material which would be contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

Conclusion

Finding that the advertisement breached Section 2.2 of the Code, the Panel upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

We will instruct the marketing team to modify the advertisement.