



Case Report

1	Case Number	0358/17
2	Advertiser	Johnson & Johnson Pacific Pty Ltd
3	Product	Toiletries
4	Type of Advertisement / media	TV - On Demand
5	Date of Determination	09/08/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement depicts women from diverse backgrounds sharing the individual rituals that make them feel confident. Each scene is set in their own personal environment:

- A young girl at home sharing her individual ritual
- A young woman with her partner on the couch sharing her individual ritual
- A young girl with her footy team sharing her individual ritual

THE COMPLAINT

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

At the end of the advertisement the 2 women kissing. I find it offensive and disrespectful for 2 women kissing in the advertisement. There is no need for it to be on advertisement of pads for women.

THE ADVERTISER'S RESPONSE

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

Carefree® Response to complaint: Advertising Standards Bureau Complaint Reference number 0358/17

We refer to the complaint received from the Advertising Standards Board (ASB).

We have carefully considered the complaint and the relevant provisions of the Australian Association of National Advertisers Code of Ethics (Code) and submit that the subject of the complaint, the Advertisement complies with the Code for the reasons set out in this letter, and that the complaint should therefore be set aside. We note that this complaint is similar to an earlier complaint made in relation to the same Advertisement, reference number 0311/17 (Previous Complaint), which was dismissed by the ASB.

DETAILS OF PROGRAMS IN WHICH THE ADVERTISEMENT APPEARS

This Advertisement was featured on Online video (such as catch up TV programming, including in this case, over the PLUS7 service), YouTube, Facebook and Instagram. Please note that, as the Advertisement was shown only online, CAD reference number and CAD rating are not applicable.

OUR RESPONSE TO THE COMPLAINT

We refer to the complaint received by the ASB and provided to us. The complaint refers to section 2.4 (sex/sexuality/nudity) of the Code.

Relevant audience of the Advertisement

The Code Practice Note states that the relevant audience is a relevant concept for restrictions on treatment of sex, sexuality and nudity and language.

For this campaign, we targeted the Advertisement specifically to adult women between the ages of 18 and 29 years. The media channels (such as online video including catch up TV) were directed to target the Advertisement to the accounts of women who meet this specific criteria. We note in particular that the Advertisement was served to the complainant during the program “Yummy Mummies” (which, given that the Advertisement was online only, we assume was via the PLUS7 catch-up TV service).

Content of Advertisement

We respectfully submit that nothing in the content treats sex, nudity or sexuality in an insensitive manner, in breach of section 2.4 of the Code. In particular:

- 1. nothing in the Advertisement portrays sex or anything of a sexual nature; in particular, the rituals stated are not sexual in any way, and the women depicted are not depicted in any way that is sexual or suggestive;*
- 2. the Advertisement does not include any nudity; the women in the Advertisement are all fully clothed; and*
- 3. the kiss referred to by the Complainant is an innocuous kiss between one woman and her partner; there is nothing sexually suggestive by their kiss.*

Particularly, in light of the fact that the relevant audience comprises women aged 18 to 29 years old, we strongly reject the assertion that the Advertisement is in any way offensive or disrespectful.

We also strongly believe that the Advertisement in no way breaches any of the other sections of the Code, specifically as follows:

1. Section 2.1: Nothing in the Advertisement discriminates or vilifies any person or section of the community; in fact the Advertisement seeks to be inclusive by depicting a lesbian couple and a Muslim woman.

2. Section 2.2: Nothing in the Advertisement employs or depicts sexual appeal.

3. Section 2.3: Nothing in the Advertisement presents or portrays violence.

4. Section 2.5: Strong or obscene language is not included in the Advertisement.

5. Section 2.6: Nothing in the Advertisement depicts any material that is contrary to community standards on health and safety.

6. Section 2.7: The Advertisement is clearly presented as an advertisement.

CONCLUSION

For the reasons set out above, we strongly submit that the Advertisement complies in all respects with the provisions of the Code (including the Codes incorporated therein), and section 2.4.

We respectfully ask the ASB to set aside the Complaint.

THE DETERMINATION

The Advertising Standards Board (the “Board”) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that the advertisement is offensive in its depiction of two women kissing.

The Board viewed the advertisement and noted the advertiser’s response.

The Board 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 Board noted this television advertisement features various women talking about things they do which no-one knows about, and in one scene a woman kissed her female partner.

The Board noted it had previously dismissed similar complaints about a depiction of same-sex kissing in case 0062/16 where:

“The Board noted the complainants’ concerns over the depictions of same-sex kissing between women and between men.

The Board acknowledged that some members of the community might be uncomfortable with images of men kissing men, or women kissing women, but considered that the depictions of kissing in the advertisement are very brief and are not sexualised or shown to lead to any further intimacy.

Consistent with previous determinations against similar complaints concerning men kissing in cases 0487/12 and 0026/15, the Board considered that in the current advertisement the brief depictions of a man kissing a man, and a woman kissing a woman, were in the context of a broad range of depictions of loving relationships and that these scenes were not gratuitous or inappropriate. The Board noted the complainants’ concerns that the advertisement did not depict men and women kissing each other, only same-sex kissing, and considered that we do see a man and woman kissing, as well as parents kissing their children and adults kissing their parents. The Board noted that all the scenes are given equal attention and that they are all in the context of an advertisement showing different family situations. The Board acknowledged that some members of the community might prefer not to see depictions of same sex couples and indeed of same sex couples kissing but considered that this is not of itself a breach of the Code. The Board considered that no undue focus is directed at any person or type of person, including the scenes showing same-sex couples kissing.”

The Board noted the current advertisement is promoting a sanitary product to women and features only women in the advertisement. The Board noted that the scene showing two women kiss is brief and considered that it is clearly in the context of a happy relationship and in the Board’s view it is not shown to lead to further intimacy. Consistent with its previous determination in case 0062/16, and more recently in case 0311/17, the Board acknowledged that some members of the community might be uncomfortable with images of women kissing women but considered that the depiction of kissing in the current advertisement is not overly sexualised and is not inappropriate for the broad audience of YouTube which would include children.

The Board noted the advertiser’s response that the advertisement was targeted at adult women aged 18 to 29. The Board noted that the advertisement was aired via online video (such as catch up TV programming, the PLUS7 service, YouTube, Facebook and Instagram) and as such there is no applicable CAD rating. Notwithstanding the medium, the Board considered that the content of the advertisement is not so sexualised as to be inappropriate for children to view.

The Board noted that it had recently dismissed the same advertisement on the internet (0311/17).

Overall the Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and determined that the advertisement did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.