



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0361-20</b>
<b>2. Advertiser :</b>	<b>Resume Results NQ</b>
<b>3. Product :</b>	<b>Professional Service</b>
<b>4. Type of Advertisement/Media :</b>	<b>Internet - Social - Facebook</b>
<b>5. Date of Determination</b>	<b>16-Dec-2020</b>
<b>6. DETERMINATION :</b>	<b>Upheld - Not Modified/Discontinued</b>

### ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification  
AANA Code of Ethics\2.4 Sex/sexuality/nudity  
AANA Code of Ethics\2.5 Language

### DESCRIPTION OF ADVERTISEMENT

This Facebook advertisement is an image of a meme showing two construction workers and the text:

BOSS: Know why I called you in here?

ME: Because I accidentally sent you a dick pic

BOSS: (stops pouring 2 glasses of wine) Accidentally?

The accompanying text to the image states: Things have gotten awkward at work? If you're looking for a new job, contact resume Results NQ for an obligation free quote on rewriting your resume. With over ten years of mining recruitment experience, we can 'sell' you the right way. No pictures needed [facepalm emoji]

### THE COMPLAINT

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

*The advertiser is constantly employing sexually explicit images, language and humour to advertise her services.*

### THE ADVERTISER'S RESPONSE





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

*Advertiser did not provide a response.*

## **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 complainant's concerns that the advertisement employs sexually explicit images, language and humour.

The Panel viewed the advertisement and noted the advertiser had not provided a 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
- Sexual preference - includes homosexuality, heterosexuality, bisexuality and trans sexuality

**Does the advertisement discriminate against or vilify a person or section of the community on the basis of sexual preference?**

The Panel considered that the advertisement suggests that the awkwardness of the situation has not come from the man accidentally sending an explicit picture to his boss, but from the reaction of his boss to the picture. The Panel considered that the description of this reaction is a depiction which is negatively characterising homosexuality.

The Panel considered that the advertisement was directed at people looking for help to get a job in the mining industry and that the industry is stereotypically associated with heterosexual males. The Panel considered that this advertisement perpetuates the stereotype that not being a heterosexual male in this industry is awkward and could cause other employees to feel uncomfortable and to seek work elsewhere.



The Panel considered that most members of the community would consider that humour which relies on the depiction of a person's sexuality as being negative or undesirable or suitable material for a joke is homophobic in nature.

The Panel considered that the advertisement did incite hatred, contempt or ridicule of homosexual men and as such did vilify a section of the community on the basis of sexual preference.

### **Section 2.1 conclusion**

Finding that the advertisement did portray material in a way which discriminates against or vilifies a person or section of the community on account of sexual preference, the Panel determined that the advertisement did breach Section 2.1 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 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 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 contains a reference to a dick pic, and an indication that the boss was attracted to his employee. The Panel considered that the advertisement contained 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 while the advertisement refers to a dick pic, there was no actual nudity depicted in the advertisement.

### **Is the issue of sexuality 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 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 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 the advertiser’s Facebook page and considered that the relevant audience would be people who follow that page and people who were looking for help in getting work in the mining industry.

A minority of the Panel considered that the sexualised humour in the advertisement was not relevant to the product being advertised and its use was gratuitous. The Panel considered that most people looking for help when seeking employment would not be expecting to see a sexual joke.

However, the majority of the Panel considered that the sexualised humour in the advertisement was not overt and that the imagery accompanying the wording was not sexualised. The Panel considered that the relevant audience of adult Facebook users seeking employment would not find the sexuality in the advertisement offensive or inappropriate.

### **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 of Section 2.4 of the Code.



**Section 2.5: Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.**

The Panel considered that some members of the community would find the phrase 'dick pic' to be offensive and inappropriate in the circumstances of advertising a resume writing business.

The Panel considered that the phrase was used in a manner consistent with its colloquial usage. The Panel considered that while many people would find an actual picture of male genitalia offensive, the term 'dick pic' was not in itself strong or obscene, or inappropriate in the circumstances of telling a story relating to an awkward workplace event.

The Panel considered that the advertisement did not use strong or obscene language and that the language used was appropriate for the circumstances.

#### **Section 2.5 conclusion**

The Panel determined that the advertisement did not breach Section 2.5 of the Code.

#### **Conclusion**

Finding that the advertisement breached Section 2.1 of the Code, the Panel upheld the complaint.

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

The advertiser has not provided a response to the Panel's determination. Ad Standards will continue to work with the advertiser and other industry bodies regarding this issue of non-compliance.