



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0371-19
2. Advertiser :	Exclusive Tyre Distributors Pty Ltd
3. Product :	Automotive
4. Type of Advertisement/Media :	Internet
5. Date of Determination	13-Nov-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.2 Exploitative or Degrading
AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This internet advertisement features an image of a man and woman entering the ocean with surfboards. The man is wearing boardshorts and the woman is wearing a one-piece swimsuit.

THE COMPLAINT

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

The male is wearing a pair of boardshort, the female is wearing a one piece bather going through her bum crack and showing both of her bum cheeks, suggesting she's ready for some sex action rather than surfing. Maybe there's an analogy with rubber and tyres.

Females showing off their bums and depicted as sex objects. There was no need to give the female surfer a wedgy

THE ADVERTISER'S RESPONSE



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

We confirm as follows:

- *The advertisement is not directed at children. It is directed at young adults who own 4WD or SUV vehicles.*
- *The advertisement does not advertise a product a product primarily directed to children. The product is primarily directed at young adults who own 4WD or SUV vehicles.*
- *The advertisement is not placed in programming that has a predominant child audience or is in a program directed to children.*

Code of Ethics Submissions

We have reviewed the Complaint and submit that the advertisement does not breach any section of Section 2 of the AANA Advertiser Code of Ethics. We make the following submissions in respect of the potential application of each section of Section 2 of the Code to the advertisement:

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 advertisement is aimed at young adults who own 4WD or SUV vehicles who drive to the beach to surf. It depicts a young couple in beach clothes running across the beach to surf. The advertisement does 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.

*2.2 Advertising or Marketing Communication shall not employ sexual appeal:
(a) where images of Minors, or people who appear to be Minors, are used; or
(b) in a manner which is exploitative or degrading of any individual or group of people.*

The advertisement is aimed at young adults who own 4WD or SUV vehicles who drive to the beach to surf. It depicts a young couple in beach clothes running across the beach to surf. It is noted that the Complaint focuses in particular on the beach clothes worn by the female in the advertisement. Those beach clothes are owned by the female who is a professional surfer and which she wears going to the beach, as do many of her female compatriots as they are particularly popular with young female surfers. Those beach clothes are extensively advertised by surf clothing companies and far from being uncomfortable as the Complainant alleges, they are found by female surfers to be particularly comfortable – otherwise they would not buy them.

The advertisement does not depict images of minors, nor does it employ sex appeal in a manner which is exploitative or degrading of any individual or group of people.



2.3 Advertising or Marketing Communication shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

The advertisement does not portray violence.

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

The advertisement does not depict sex or nudity, and to the extent that it may portray sexuality it is portrayed with sensitivity to the relevant audience – namely young adults who own 4WD and SUV vehicles.

2.5 Advertising or Marketing Communication 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.

No language is used in the advertisement, let alone strong or obscene language.

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

The advertisement does not depict material contrary to prevailing community standard on health and safety. The advertisement depicts a young couple in beach clothes running across the beach to surf.

2.7 Advertising or Marketing Communication shall be clearly distinguishable as such to the relevant audience.

The advertisement is clearly distinguishable as such to the relevant audience - young adults who own 4WD or SUV vehicles.

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 concern that the advertisement:

- depicts the woman as a sex object
- depicts the woman in swimwear which exposes her buttocks

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

The Panel considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: "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 first considered whether the advertisement used sexual appeal.

The Panel considered that the advertisement depicts two people in swimwear which is appropriate for the beach location. The Panel considered that there is no focus on either the man or woman’s body and there is nothing sexualised about their poses or actions. The Panel considered that the advertisement did not use sexual appeal.

Finding that the advertisement did not employ sexual appeal the Panel determined that the advertisement did not breach Section 2.2 of the Code.

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 whether the advertisement contained sex, sexuality or nudity.

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 two people in the advertisement were shown walking into the water as though they are about to go surfing. The Panel considered that there was no suggestion of a relationship between the two people, and no depiction of sexually stimulating or suggestive behaviour. The Panel considered that the advertisement did not contain sex.

The Panel considered whether the advertisement depicted 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 for the application of the term in the Code, the use of male or female actors in an advertisement is not of itself a depiction of sexuality.

The Panel considered that the man and woman were not posed in a sexualised way, and were not engaging in sexualised activity. The Panel considered there was no sexualised language in the advertisement or sexual suggestion. The Panel considered that the advertisement did not contain sexuality.

The Panel considered whether the advertisement contained nudity and 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 considered that the Code is intended for the Panel to consider the concept of nudity, and that partial nudity is factor when considering whether an advertisement treats nudity with sensitivity to the relevant audience.

The Panel considered that the woman's swimwear did expose a large amount of her buttocks and that some members of the community would consider this to constitute nudity.

The Panel considered whether the advertisement treated the issue of nudity 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 noted that the requirement to consider whether sexual suggestion is 'sensitive to the relevant audience' is a concept requiring 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 suggestions is or might be is relevant to the Panel considering how children, and other sections of the community, might consider the advertisement.

The Panel noted that this image appeared on the landing page for Yahoo and that the likely audience for this website would be adults and older children.

The Panel noted the Practice Note for the Code states:

"Full frontal nudity and explicit pornographic language is not permitted. Images of genitalia are not acceptable."

The Panel considered that although the woman's buttocks was visible, her swimsuit was similar to styles worn by surfers and women at the beach. The Panel considered that the woman's dress is consistent with the context of the advertisement and that the focus of the advertisement is not on the woman's body. The Panel considered that there was no overt nudity at a level that most members of the community would find confronting or unacceptable.

The Panel considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience and in the Panel's view the advertisement did not breach Section 2.4 of the Code.

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