



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0373-19
2. Advertiser :	Roadshow Films
3. Product :	Entertainment
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	27-Nov-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

There are two versions of this television advertisement which features scenes from the film "Hustlers".

In the first version of the advertisement the words 'Hustlers is the must see movie event of the year' appear on the screen in between short excerpts from the film, including:

- A man is sitting down with three women, when one of the women leans towards him and says, "We should go to a club. A strip club." The man responds, "I'm in" and laughs.
- A man does a shot while a woman tips hers out behind her
- A man hands a credit card to a woman and she blows him a kiss
- A small dog in a handbag
- Two women in a club, one wearing a large fur coat
- A woman raises her arm in the air and sticks out a pierced tongue
- Two women dance in the front seats of a car
- a bottle of champagne popping
- a group of women laughing
- Split screen images showing a woman with blood on her midriff, a woman walking around a pole on a stage, women dancing in a club and policemen pointing guns
- A woman asks, "are you in?"



In the second version of the advertisement short reviews from various media outlets appear throughout the advertisement alongside short excerpts from the film, including:

- A man is sitting down with three women, when one of the women leans towards him and says, "We should go to a club. A strip club." The man responds, "I'm in" and laughs.
- A man does a shot while a woman tips hers out behind her
- A man hands a credit card to a woman and she blows him a kiss
- Two women sit facing each other bobbing up and down. One woman is holding a dog while the other pats it on the bottom
- Two women in a club, one wearing a large fur coat
- A woman raises her arm in the air and sticks out a pierced tongue
- Two women dance in the front seats of a car
- a bottle of champagne popping
- a group of women laughing
- Split screen images showing women dancing in a club and policemen pointing guns
- A woman asks, "are you in?"

THE COMPLAINT

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

Sexual references through a family time slot.

For a family show the masked singer having the advertisement for the Hustler is inappropriate when they are MA15+ movies

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 contains sexual references in a family timeslot.

The Panel viewed the advertisement and noted the advertiser did not provide a response.



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 both versions of the advertisement contained a reference to a strip club, however this in itself is not a depiction of 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 both versions of the advertisement feature a woman inviting a man to a strip club and that this could be seen as a recognition of sexual matters. The Panel also noted the scene in both advertisements where the man gives his credit card to a woman and she kisses the air near his face and considered that this could also be interpreted as an expression of sexual desire. The Panel considered that the advertisement depicted 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 a factor when considering whether an advertisement treats nudity with sensitivity to the relevant audience.

The Panel considered that in both versions of the advertisement there was nobody depicted as nude or naked. The Panel noted that the first version of the advertisement featured a woman walking around a pole in a club, however considered that the woman appeared to be wearing a dress and was not naked. The Panel considered that the advertisement did not include nudity.

The Panel considered whether the advertisement treated the issue of sexuality 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 the advertiser's response that the advertisement had been given a 'J' rating by ClearAds and this meant that it could be played at any time except C and P programs. The Panel considered that the relevant audience would therefore be broad and likely include children.

The Panel considered that the brief mention of a strip club and the scene where the woman kisses the air near the man's face were fleeting, not the focus of the advertisement and featured only a very mild level of sexuality.

The Panel considered that most members of the community would not find the advertisement confronting or inappropriate for a broad audience which would include children.

The Panel considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad 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 Panel dismissed the complaint.