



Case Report

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| 1 | Case Number | 0374/15 |
| 2 | Advertiser | Sojo Pty Ltd |
| 3 | Product | Lingerie |
| 4 | Type of Advertisement / media | TV - Free to air |
| 5 | Date of Determination | 14/10/2015 |
| 6 | DETERMINATION | Dismissed |

ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features Nick "Honey Badger" Cummins describing the Tradie underwear he is modelling. Comments made by Nick include: "snazzy looking fart filters that'll keep your meat and two veg very warm", "they're the duck's nuts" and "Tradie Underwear - the ultimate toolbox".

THE COMPLAINT

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

Offensive references to the male anatomy, vulgar descriptions of bodily functions. Quite inappropriate for the time of night it was being shown.

THE ADVERTISER'S RESPONSE

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

Further to your letter advising us of a complaint received for our Tradie Underwear advertisement aired on Channel 9 on September 4th at 8.53pm during Nine's Friday Night Football program.

The commercial was classified by CAD (independent board) and has aired in a program that allows “P” classified television commercials. Therefore this advertisement has fallen within the parameters for TV advertising as set out by CAD and followed by Network 9. We are advertising men’s underwear and therefore it is appropriate to show a man (Nick Cummins) in his underwear and comment on the comfort and style (good looks) of the underwear.

We have followed all advertising classification requirements and as such, are within the required rules.

THE DETERMINATION

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

The Board noted the complainant’s concerns that the advertisement features offensive references to the male anatomy and is inappropriate for general viewing.

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

The Board then 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 Nick (Honey Badger) Cummins, a Wallabies player, wearing a pair of Tradies undies and describing their fit and comfort.

The Board noted that the undies are covering Nick’s genitals and considered that the level of nudity was consistent with similar advertisements for underwear (0330/15, 0329/15, 0320/15, 0251/15) and was not explicit or inappropriate.

The Board noted the pose of Nick throughout the advertisement and considered that he is not presented in a manner which is sexualised or intended to be sexually suggestive and the focus is on his whole body.

The Board noted that the advertisement had been rated ‘PG’ by CAD and considered overall that the content does treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.

The Board determined that the advertisement did not breach Section 2.4 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “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 Board noted that the comments made by Nick to describe the fit and comfort of the advertised product include, “snazzy looking fart filters that’ll keep your meat and two veg very warm”, “they’re the duck’s nuts”, and “Tradie Underwear – the ultimate toolbox”.

The Board noted that some members of the community may find the word ‘fart’ to be offensive but considered that consistent with a previous determination (523/08) this word is part of the common Australian vernacular and is not considered strong or obscene by most members of the community.

The Board noted the reference to ‘meat and two veg’ and considered that whilst this colloquial reference to a man’s penis and testicles may be found offensive to some members of the community the Board considered that it is not strong, obscene or sexualised language.

The Board noted the use of the phrase, ‘duck’s nuts’ and considered that whilst this comment could be interpreted as referring literally ‘to the testicles of a duck’ the Board considered that it is not strong, obscene or sexualised language and that most members of the community would interpret it as just a saying, such as the ‘bees knees’, meaning that something is really good.

Finally the Board noted the use of the phrase ‘ultimate toolbox’. The Board noted that ‘toolbox’ is sometimes used as a reference to a man’s genitals but considered it is not a strong or obscene reference and the use of the word toolbox in the context of the name of the product, Tradie Underwear, makes its use more relevant.

The Board noted that Nick is known for using this type of Australian vernacular when interviewed as part of his duties as a sportsman and considered that even if you were not familiar with this Wallabies player and his style of speak in the Board’s view the language used in the advertisement is not strong, obscene or inappropriate in the circumstances.

The Board acknowledged that some members of the community would find the language used in the advertisement to be in poor taste but considered that overall the language was not strong or obscene or inappropriate in the circumstances.

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

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

