



**Ad Standards** Community Panel  
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Ad Standards Limited  
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## Case Report

|   |                              |
|---|------------------------------|
| <b>1. Case Number :</b>                 | <b>0376-20</b>               |
| <b>2. Advertiser :</b>                  | <b>LifeStyles Healthcare</b> |
| <b>3. Product :</b>                     | <b>Health Products</b>       |
| <b>4. Type of Advertisement/Media :</b> | <b>TV - On Demand</b>        |
| <b>5. Date of Determination</b>         | <b>16-Dec-2020</b>           |
| <b>6. DETERMINATION :</b>               | <b>Dismissed</b>             |

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This TV On Demand advertisement depicts a number of individuals in intimate positions with a partner in a car and room, while the voice over recites the song "Heads, Shoulders, Knees and Toes, and eyes, ears, mouth, nose", to accompany the movement of these different body parts.

A voice-over then states "Pleasure is an endless exploration. So, keep your body fresh, anytime and anywhere, with the new SKYN® Wipes."

### THE COMPLAINT

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

*I was watching paw patrol with my young toddlers and it was very inappropriate and unexpected*

*Sexually explicit images*

*This ad is highly inappropriate to be slotted in the middle of a program rated G (i.e. suitable for all ages). I had my highly impressionable young children forced to watch this advertisement to continue watching junior masterchef. I realise it is a bit later at*



*night, however such sexually suggestive advertisement should not be slotted for programs aimed at children.*

## **THE ADVERTISER'S RESPONSE**

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

*Thank you for giving LifeStyles Healthcare the opportunity to respond to the community complaint regarding our SKYN® Wipes advertisement (the Advertisement) which is currently screening on 10Play, and to provide our comment as to whether the Advertisement breaches the AANA Advertiser Code of Ethics (the Code).*

*The advertising depicts a number of individuals being intimate with their spouse in a car and room, while the voice over recites the song "Heads, Shoulders, Knees and Toes" in modulating tones throughout, to accompany the movement of these different body parts throughout the video.*

*There is no overt nudity in the Advertisement, rather, it uses close images of a couple enjoying consensual intimacy with one another, and fully clothed for the most part. There is also no language that is either vulgar or overtly sexual, as the voice-over goes from reciting the lyrics to the song straight to the line; "Pleasure is an endless exploration. So, keep your body fresh, anytime and anywhere, with the new SKYN® Wipes." We do not believe that the Advertisement would expose those under the age of 21 to any vulgar or sexual imagery nor language at any point.*

*LifeStyles considers that the Advertisement meets the rigorous criteria prescribed by the Code as the content does not:*

- 1. Discriminate or vilify any section of the community*
- 2. Portray minors or any other individuals in any sexual way and nor does it contain any exploitative or degrading material*
- 3. Contain any violence*
- 4. Portray sex, sexuality and nudity insensitively to the relevant audience (more about this below)*
- 5. Use obscene or vulgar language*
- 6. Depict material contrary to health and safety standards*
- 7. Try to be anything other than advertising of our SKYN® intimate wipes product*

*As a brand we always ensure that we do our due diligence in ensuring that the content of our advertising is appropriate for the audiences to which we are targeting. Specifically, as all catch-up tv channels require a login, the Advertisement has only been served to accounts linked to the details of those who are over the age of 20 years old. Due to the likelihood that in this case the mother logged in on her account, the advertisement was shown as the system indicated the audience member was 20 years old or above.*



*The product advertised by the Advertisement have been openly displayed on supermarket shelves such as Coles and all major pharmacies since March 2020.*

*Nonetheless, to illustrate our commitment to the community and to take extra care in avoiding insulting or offending our unintended audience, we have arranged for the Advertisement to only screen between 8.30pm to 5.30am.*

*We believe that the information set out herein will illustrate LifeStyles' commitment to the Code in our advertising.*

## **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 complainants' concerns that the advertisement contained sexually explicit images and is highly inappropriate to be slotted in the middle of a program rated G.

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

### **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 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 noted that the advertisement depicts various couples in varying stages of sexual activity. The Panel considered that the advertisement did not contain explicit sex scenes, however the overall impression of the advertisement is that the couples were engaging in sex. The Panel considered that the advertisement did 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 considered that the advertisement depicts various couples in varying stages of sexual activity and considered that this did emphasise sexual matters and does depict 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 the people in the advertisement are not nude, however several appear to be in underwear or shirtless (i.e. a woman in a bra or bikini top, a shirtless man). The Panel considered that the depiction of people in underwear can be considered by some members of the community to be partial nudity.

### **Are the issues of sex, sexuality and nudity 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 considered that children may understand the concept of the advertisement, however considered that the advertisement does depict any explicit sex scenes and that the level of nudity in the advertisement was mild and not inappropriate for the relevant audience.

The Panel noted that the advertisement appeared on TV On Demand. The Panel noted that the complainants had been watching Paw Patrol, Masterchef Junior and Bondi Rescue either after 8.30pm or in the middle of the day.



The Panel noted that TV On Demand does not have the same controls as free-to-air TV, in that advertisements are not classified and placed according to their classification.

The Panel noted the advertiser's response that the advertisement was only targeted to users who had signed into 10Play and indicated that they were aged over 20, and the Panel acknowledged that some children may view the advertisement if watching with their parents. The Panel further noted the advertiser's response that they have now arranged for the advertisement to only screen between 8.30pm to 5.30am.

The Panel considered that given the amended time zone placement of the advertisement the primary audience of the advertisement would be adult.

### **Use of children's song**

The Panel noted that the advertisement uses the song "Heads, shoulders, knees and toes" in the beginning. The Panel considered that while this song is traditionally a children's song, the version used in the advertisement is slower and cuts off seven seconds into the advertisement. The Panel considered that the use of the song is unlikely to be attractive to children and is not used in an explicitly sexualised manner.

### **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 Section 2.4 of the Code.

### **Conclusion**

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