



**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>0380-19</b>
<b>2. Advertiser :</b>	<b>13cabs</b>
<b>3. Product :</b>	<b>Vehicle</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - On Demand</b>
<b>5. Date of Determination</b>	<b>27-Nov-2019</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 features a man lying in bed in the dark when a phone message tone goes off and the message 'Hey u up??' appears.

A woman in an office answers a video chat phonecall from a man and they greet each other.

A man is sitting on a couch when he gets a text message.

The woman in the office is told by her partner that he just dropped the kids off at his mum's house and she appears excited.

The man on the couch smiles as he receives another message and hides the screen of his phone. He then says he needs to leave. When a friend asks where he's going he says that something has come up.

The woman in the office shuts her laptop and leaves.

Another woman leaves a house early in the morning and walks towards a taxi.

The words '13cabs official travel partner of the Booty Call' appear on screen.

The man lying in bed receives another text message with the eggplant emoji, a winking face with the tongue poked out and a 13cabs emoji.

### THE COMPLAINT

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



*The add I feel was inappropriate as they are advertising the cabs to pick you up and help drop you off to your BOOTY CALL really???? Im no prude but why do they feel the need to advertise it?? Also at the end there is a very inappropriate text with emojis with a emoji of an eggplant and mouth we all know what that means how disgusting any child could see this ad to and ask questions really where are 13CABS moral ethics????*

## **THE ADVERTISER'S RESPONSE**

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

*The entirety of this campaign, 'Official Travel Partner of...' is designed to tap into the relevant social commentary of the 13cabs audience group, aged 18 – 55. Therefore, it purposely references themes, trends and language that is commonly used in order to resonate directly with this audience.*

*Clear Ads reviewed the commercial and we have met all of their requirements. Ratings advice was given and has been adhered to. Please find attached Clear Ads' classification of the commercial which are the subject of the complaint.*

*The programming in which this commercial appeared was curated to ensure any themes or content fit within the parameters of the program being watched.*

*We have reviewed Section 4 – Sex, Sexuality or Nudity of the AANA Code of Ethics Practice Note (November 2018) and in response to complaint case number 0380-19, we are of the opinion that the commercial which is the subject of the complaint does not offend any of the criteria set out therein. In the commercial titled "Booty Call" the scenarios depicted are playful, modern and what we consider to be a 'slice of life situations'. They are not designed to cast judgement or acutely portray any specific person or people in a questionable way. Our passengers catch cabs for thousands of reasons on any given day or night and this scenario is a cheeky observation of just one of them. Throughout the entirety of the commercial, we do not see the 13cabs driver interacting with any passengers and there are no implications of any judgements being made by a driver. We draw the Community Panel's attention to the attached Clear Ads' classification of the advertisement in which they rated the commercial a 'P'.*

*Whilst we are of the view that our commercials do not breach the AANA's Code of Ethics, we will take into consideration the comments and concerns of the complainants for future advertising and marketing campaigns.*

## **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 contains sexual themes and is not appropriate for younger teenagers to view.

The Panel viewed the advertisement and noted the advertiser's 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 the advertisement did not contain sex.

The Panel considered whether the advertisement contained 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 of itself a depiction of sexuality.

The Panel considered that the reference to a 'booty call' was a reference to a sexual activity. The Panel noted the brief depiction of eggplant emoji at the end of the advertisement and considered that a reference to male genitals through the use of an emoji could be considered a recognition or emphasis of sexual matters. The Panel considered that the advertisement did depict sexuality.

The Panel then considered whether the advertisement contained nudity.

The Panel considered that all the people depicted in the advertisement are fully clothing and considered that the advertisement did not depict nudity.

The Panel then 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 only aired during shows with themes similar to those in the advertisement and noted that the complainant had viewed the advertisement while watching Home and Away on catch up television.

The Panel noted that the reference to 'booty call' is only displayed as text on screen and is not stated verbally. The Panel noted that the text remains on screen for four seconds. The Panel considered that while a mature audience may understand that a 'booty call' is a meeting to have casual sex initiated by a phone call, text message, etc, this is highly unlikely to be understood by children. The Panel also noted that there are no sexually suggestive images in the advertisement. The Panel also noted that a suggestion of casual sex is not of itself inappropriate or in breach of the Code of Ethics although some members of the community would prefer not to see such references.

The Panel noted that the eggplant emoji is recognised by some members of the community to be a symbol for a penis when sexting, however considered that this is not something that would be known by most children.

The Panel considered that the image of an eggplant emoji would not of itself be considered confronting by most members of the community and considered that the sexual suggestion in the advertisement was a reference that is unlikely to be understood by the broad community.

The Panel noted that it has consistently determined that advertisements which use mild sexual reference, where a non-sexualised explanation of the meaning would be taken away by children, do treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience (0197-18, 0001-19).

The Panel considered that 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.