



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0390-19
2. Advertiser :	Howard Smith Wharves
3. Product :	Alcohol
4. Type of Advertisement/Media :	Internet
5. Date of Determination	11-Dec-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This internet advertisement is a event listing for "The Joy Of Wine" and features an image of a champagne bottle with champagne frothing from the top, and features the text:

"The Joy of Wine is an event full of discovery, empowering a whole generation to enjoy wine unburdened by inhibition.

About this Event

Howard Smith Wharves and Young Gun of Wine forces for The Joy of Wine event.

The Joy of Wine is a veil-lifting guide to that most sensual of beverages. Long shrouded in mystery, we believe wine should be playful, exhilarating, and most of all, pleasurable. Celebrate the joys of the grape in a multitude of positions, from the wildly exotic to the missionary. The Joy of Wine is an event full of discovery, empowering a whole generation to enjoy wine unburdened by inhibition.

From emerging talent and labels contending for the next Young Gun of Wine Awards to some of the best wines from our blind tastings and editorials for younggunofwine.com, the event will feature winemakers and other pros slinging wines. Sip and spit, or slurp and swallow, whatever takes your fancy. Talk your way through it, or keep your lips sealed. It's your choice. We're just here to help you try something new and enjoy things your way.



The event will feature around 50 wines from 25 Australian winemakers on the Main Lawn, for one night only.

A selection of eats will be available to purchase to balance out the pours."

THE COMPLAINT

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

The sexual undertones for a wine event are unnecessarily. I'm confused as to whether its an orgy or a wine tasting.

THE ADVERTISER'S RESPONSE

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

The advertising in question (attached) for the Joy of Wine event relates to advertising a public wine event to be co-hosted at Howard Smith Wharves.

In responding to section 2 of the AANA code of ethics, our comments are as follows:

- *2.1 – Discrimination or Vilification – The advertisement only targets persons 18 years of age and older who are wine enthusiasts. The advertisement does not discriminate against or vilify anyone.*
- *2.2 – Exploitative or Degrading – This is a written advertisement with a limited and benign visual aspect and the wording used is playful and may be suggestive but only to the targeted audience. No one has been exploited or degraded by the use of the language in the advertisement or the image used.*
- *2.3 – Violence – No violence is depicted.*
- *2.4 – Sex, Sexuality and Nudity – this is a written advertisement with a benign visual aspect. The advertisement was designed to appeal to wine enthusiasts to communicate the event, showcasing up and coming winemakers in a fun and playful manner and was not intended to cause any offence or harm to anyone. The publication, on which the advertisement was in part modelled, is based on an iconic historical publication, first published almost 50 years ago and on the New York Times bestseller list for some time. That publication to date has sold in excess of 12 million copies worldwide.*
- *2.5 – Language – No inappropriate language has been used in the advertisement and the language is appropriate for the targeted audience and medium used.*



- *2.6 – Health and Safety – The advertisement does not raise any issue with health and safety. There is no suggestion of excess alcohol consumption being encouraged or condoned.*
- *2.7 – Distinguishable as Advertising – For anyone reading the full text, it is perfectly clear that this is an advertisement and not something camouflaged as advertising, especially when:*
 - (a) the event advertised is to be held in a public place and thus subject to scrutiny;*
 - (b) there is an admission price; and*
 - (c) if the text were to be taken to be an invitation to an orgy, an orgy is not something that would be advertised to the public in a public medium.*

We do not believe that the advertisement in any way breaches the AANA Code of Ethics.

In all the circumstances we ask that the Community Panel dismisses the complaint.

We apologise for any offence or harm that may have been caused which was totally unintentional.

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 features sexual undertones which is inappropriate for a wine tasting event.

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 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.”

The Panel considered whether the images depicted 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 image of a champagne bottle frothing from the top and the text in the advertisement is not of itself a depiction of sexual intercourse, sexual stimulation or suggestive behaviour. The Panel considered that the advertisement as a whole did not contain sex.

The Panel then 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 the use of male or female actors in an advertisement is not of itself a depiction of sexuality.

The Panel considered that the advertisement is promoting a wine tasting event. The Panel noted that phrases such as “sip and spit, or slurp and swallow, whatever takes your fancy” and “celebrate the joys of grapes in a multitude of positions, from the wildly exotic to the missionary” are used, but considered that these references are clearly in the context of consuming wine and the phrasing is not sexual.

The Panel noted the advertiser’s response that the advertisement was partly modelled on 1972 book *The Joy of Sex*, but considered that many members of the community would not be familiar with the book.

The Panel considered that even though the advertisement was modelled on a book called *The Joy of Sex*, the advertisement itself does not depict any sexualised material. The Panel considered that the advertisement did not depict sexuality.

The Panel considered that for members of the community who understand the reference to the book ‘*The Joy of Sex*’, would take sexual references and connotation from the material. However the Panel noted that the information is on a ticketing portal and only adults seeking to purchase tickets to the wine event would be reading the material. Given the primarily adult audience, and the mild sexual double entendres, the Panel considered that the marketing material did treat sex and sexuality with sensitivity to the relevant audience.

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 firstly contains nudity and secondly treats that nudity with sensitivity to the relevant audience.

The Panel noted that there are no people depicted in the advertisement that the advertisement therefore does not contain nudity.

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.

Finding that the advertisement did not breach Section 2.4 of the Code, the Panel dismissed the complaint.