



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0446/18
2	Advertiser	Stan
3	Product	Entertainment
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	24/10/2018
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 scenes from upcoming film 'Escape at Dannemora'.

THE COMPLAINT

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

My 7year old picked up on the "having sex" comment. I am furious.

Totally inappropriate to be displayed during AFL Grand Final, lots of children watching at this time and content was of a sexual nature completely inappropriate and not happy as a parent of young impressionable children, not acceptable

THE ADVERTISER'S RESPONSE



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

COMPLAINT REFERENCE NUMBER: 0446/18

We refer to your letter dated 4 October 2018 regarding the abovementioned complaint in respect of one of Stan's advertisements ("Advertisement").

Facts relating to the Advertisement

- The Advertisement ran for 30 seconds on Channel 7 on 29 September 2018 during the broadcast of the 2018 AFL grand final.*
- The Advertisement is designed to inform viewers of, and to showcase, the program Escape at Dannemora.*
- The CAD rating for the Advertisement is "J".*

AANA Advertiser Code of Ethics (Code)

We have reviewed the relevant sections of the Code and the information and guidance provided on adstandards.com.au in relation to responding to complaints.

In our view, the Advertisement complies in all relevant respects with the AANA Code of Ethics ("Code"), and is in step with Prevailing Community Standards.

We address each element of section 2 of the Code below:

Discrimination or vilification (s2.1)

The Advertisement does not discriminate against or vilify a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

Discrimination and vilification were not issues raised in the Complaint.

Sexual appeal (s2.2)

The Advertisement does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

Exploitative and degrading use of sexual appeal was not an issue raised in the Complaint.

Violence (s2.3)

The Advertisement does not present or portray violence in a manner which is not justifiable in the context of the programs and service advertised.

Violence was not an issue raised in the Complaint.

Sex, sexuality and nudity (s2.4)

The Advertisement treats sex, sexuality and nudity with sensitivity to the relevant audience.

The Advertisement contains one use of the word "sex".

The Advertisement does not contain any nudity or images of a sexual nature.

The use of the word "sex" is a contextual, relevant and accurate representation of the



program being advertised, and is peripheral to the overriding tone of the Advertisement, which is not one of overt, obscene or gratuitous sexualisation or nudity.

The Advertisement was rated “J” by CAD and the Advertisement was run in an appropriate timeslot.

Based on the foregoing and taking into account the AANA Code of Ethics – Practice Note, we are strongly of the view that the Advertisement’s fleeting and non-gratuitous use of the word “sex” treats issues of sex, sexuality and nudity with a sensitivity to the relevant audience, is justifiable in the context of the program being advertised and is consistent with prevailing community standards.

Inappropriate language (s2.5)

The Advertisement contains one use of the word “sex”.

The use of this word accurately reflects the program being advertised, and does not employ a tone of overt or obscene sexuality.

This word is in common use throughout Australia and is not inconsistent with prevailing community standards, particularly in the opt-in environment of on-demand viewing.

Based on the foregoing and taking into account the AANA Code of Ethics – Practice Note we are strongly of the view that the language included in the Advertisement was consistent with prevailing community standards, was not obscene and was used in an inoffensive manner.

Health and Safety (s2.6)

The Advertisement does not contain any material which, in our view, is contrary to Prevailing Community Standards on health and safety (including as detailed in AANA Code of Ethics Practice Note), nor does the Advertisement depict any dangerous behaviour which is likely to be imitated by children.

The complaint did not raise this.

Distinguishable as advertising (s2.7)

The Advertisement contains:

- the onscreen graphic which reads “Only on Stan” for the duration of the Advertisement;*
- the onscreen graphic at the end of the Advertisement: “Brand New Series”;*
- the final screen which features the Stan logo and the words “Only on Stan”, all of which clearly distinguish the Advertisement as an advertisement. The complaint also notes that it is an advertisement.*

Stan comments in relation to the complaint

For the reasons set out above, we strongly believe the Advertisement complies in all relevant respects with the Code.

The Advertisement adhered to the relevant classification restrictions and was placed in an appropriate timeslot. Further, the placement was reviewed / approved by OMD to



ensure the Advertisement is sensitive to the likely audience.

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 sexual themes and language that was inappropriate for an audience that would include children.

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

The Panel noted that the advertisement features scenes from the television program “Escape at Dannemora”, and the particular scene which is the subject of complaints depicts a woman being asked “Did you have sex with these two inmates?”

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 noted the complainants’ concern that the advertisement contained a reference to “having sex” and that this was inappropriate to be aired during family TV viewing.

The Panel noted that the advertisement received a J rating by CAD (parental guidance recommended and not in children’s programs) and was aired at a time appropriate to the rating (http://www.freetv.com.au/media/CAD/Placement_Codes.pdf). The Panel considered that the relevant audience for this advertisement would likely be broad and include children.

The Panel noted the advertisement did contain the phrase “have sex”, however considered that this was the only sexual reference in the advertisement, was used in a matter of fact manner and was a fleeting image in a montage of scenes from the television program.

The Panel noted that the advertisement did not contain nudity or any other sexual references.

The Panel considered that in the context of an advertisement for a television series it is reasonable for an advertiser to show scenes from that program.

The Panel considered that the advertisement did treat the issue of sex, sexuality and



nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

The Panel 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 Panel noted the complainants’ concern that the language was inappropriate for an audience which would include children.

The Panel again noted the advertisement did contain the phrase “have sex”, however considered that this was the only reference to sex in the advertisement and it was not used in a sexually explicit context and was fleeting.

The Panel noted that use of the word “sex” is not of itself a breach of the Code, and considered that the word would be unlikely to be considered inappropriate by most members of the community.

The Panel considered that in the context of an advertisement promoting a MA15+ program, in the Panel’s view the word “sex” is not inappropriate.

Finding that the advertisement did not use strong or obscene language and that the language was not inappropriate, the Panel 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 Panel dismissed the complaints.

