



## Case Report

1	Case Number	0565/17
2	Advertiser	Stan
3	Product	Entertainment
4	Type of Advertisement / media	TV - On Demand
5	Date of Determination	19/12/2017
6	DETERMINATION	Upheld - Modified or Discontinued

### ISSUES RAISED

2.5 - Language Inappropriate language

### DESCRIPTION OF THE ADVERTISEMENT

The Advertisement was aired on On-Demand Television, and features Frankie Shaw the creator and star of SMILF talking about 5 reasons that viewers should watch the program. SMILF.

### THE COMPLAINT

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

*It used very rude words my son likes to watch Flip or Flop (a home buying and selling show) and this add came up and I had to rush him from room as I could not get it to pause or stop quick enough I do not think the words used were appropriate to be shown on a series that kids can watch.*

*I was watching Kath n Kim with my 17 year old daughter. I do not specifically care about these terms, nor does my daughter however it was a shock in the context of Kath n Kim which I would say is PG, perhaps M but I felt the ad was more MA15+. I don't like being confronted with stuff like that out of context and I think it's inappropriate for the Kath n Kim audience.*

### THE ADVERTISER'S RESPONSE

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

*We refer to the complaint in respect of one of Stan's advertisements ("Advertisement").*

*1. Facts relating to the Advertisement*

- The Advertisement ran for 30 seconds on the 9Now service during a catch-up episode of Flip or Flop s6 (rated G) and a catch-up episode of Kath n Kim (rated PG).*
- The Advertisement is designed to inform viewers of, and to showcase, the program SMILF.*
- The Advertisement appeared online and therefore did not receive a CAD rating and does not have a script.*
- SMILF has a "CTC" classification. Stan consider SMILF is likely to be classified MA15+. This likely classification was determined by Stan's content operations executive Benny May, a trained content assessor. No footage from the program was included in the Advertisement.*
- We have now removed the Advertisement.*

*2. 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](http://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.*

*The complaint did not raise this.*

*• Sexual appeal (s2.2)*

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

*The complaint did not raise this.*

*• Violence (s2.3)*

*The Advertisement does not present or portray violence.*

*The complaint did not raise this.*

*• Sex, sexuality and nudity (s2.4)*

*The Advertisement did not contain any sex, sexuality or nudity.*

*The complaint did not raise this.*

- *Inappropriate language (s2.5)*

*The Advertisement contains two words of an allegedly inappropriate nature: "dick" and "peen".*

*The use of these words accurately reflects the program being advertised, which explores the topics of sex and relationships in a light-hearted and humorous manner, rather than employing a tone of overt or obscene sexuality.*

*These words are in common use throughout Australia and are not inconsistent with prevailing community standards, particularly in the opt-in environment of on-demand viewing.*

*The complaint alleges the words "fuck" and "cock" are included in the Advertisement. This is not the case; neither of those words are used.*

*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 a light-hearted and inoffensive manner.*

*In any case, we have since removed the Advertisement from the internet.*

- *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 graphics at the end of the Advertisement: "New Season" and "Now Streaming";*
- *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.*

*3. Stan comments in relation to the complaint*

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

## **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 complainants' concerns that the advertisement depicts material from a program and wording – SMILF that is inappropriate for an audience that could include children.

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

The Board 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 the advertisement was aired on On-Demand Television, and features Frankie Shaw the creator and star of SMILF talking about 5 reasons that viewers should watch the program. When describing reason number 2, Frankie states there is: a lot of "male nudity," "a lot of full frontal," "a lot of dick," "full frontal peen," "long fat, peen." The final scene says it is now streaming only on Stan.

The Board noted that Freeview, unlike Free TV channels is not a broadcaster and that CAD ratings are not required for advertisements aired during television shows viewed via on-demand television. The Board noted that the advertisement was aired during an episode of "Flip or Flop" and "Kath and Kim". The Board considered that of these two program, Flip or Flop (rated G) is a program directed at families and would likely include children amongst the viewers.

The Board noted the advertiser advised that the program SMILF itself was likely to be rated MA 15+ and that the advertisement has since been removed from broadcast.

The Board considered that the abbreviation SMILF was understood to mean 'Single Mums I'd like to Fuck' and that this meaning may not be understood by a broad audience but considered that the target audience for the program itself would likely know what this lettering was intended to mean.

The Board noted the use of the words "full frontal, dick and peen," and considered that these are all references to a man's genitals and that the compilation of these terms in the one reason for watching as described by the presenter, amounted to an excessive and obvious use of terms that are descriptive of a man's private area.

The Board noted that the advertisement did not show any scenes from the program and considered that although the woman does not deliver the words in a sexual way, the use of colloquial words describing a man's penis in the context of a show that is titled SMILF, amount to a depiction that was sexualised and the language is inappropriate for the likely audience.

The Board considered that the advertisement did use strong, language for the circumstances in a manner that is inappropriate particularly given the relevant audience would include children.

Finding that the advertisement did breach Section 2.5 of the Code, the Board upheld the complaints.

## **THE ADVERTISER'S RESPONSE TO DETERMINATION**

The Advertisement ran for a short period of time, and is no longer running.

Stan notes there are specific advertising challenges in relation to placement of advertisements within video-on-demand, as providers may not guarantee advertisements within certain programs or timeslots.

Stan remains committed to observing the advertising codes of practice, and will continue to work with on-demand providers to overcome these challenges.