



## Case Report

1	Case Number	0566/16
2	Advertiser	Boost Tel Pty Ltd
3	Product	Mobile Phone or SMS
4	Type of Advertisement / media	Radio
5	Date of Determination	18/01/2017
6	DETERMINATION	Dismissed

### ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

### DESCRIPTION OF THE ADVERTISEMENT

This radio advertisement features a male voice over speaking about how the new Boost mobile plan gets you more, including more swipes, matches, chances to nail that opening line and dates. The voice over then says "and more..." and the sound of a squeaky bed is heard. The voice over then continues to talk about the details of the plan.

### THE COMPLAINT

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

*The ad describes getting more dates and (squeaking bed noises) insinuating getting more sex because of the data allowance on the phone plan at lunchtime on a Sunday. I find that highly inappropriate and offensive at any time of day but more so due to kids being in cars and hearing that kind of ad*

### THE ADVERTISER'S RESPONSE

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

*We note that the issue raised relates to paragraph 2.4 of the AANA Advertiser Code of Ethics (Code). As you are aware, this paragraph of the Code states that advertising or marketing communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.*

*The advertisement in question is a 30 seconds radio ad. With respect, we respectfully submit that our client's advertisement, contrary to breaching paragraph 2.4 of the Code, seeks to uphold the spirit of that provision by:*

*(a) not explicitly dealing with sex, sexuality or nudity;*

*(b) not in any manner dealing with nudity, per se; and*

*(c) to the extent that the advertisement carries an implicit reference to sex or sexuality, the implicit reference would only be identified by any person (adult or child) whom:*

*(i) firstly, can draw the conclusion that the cacophony of sounds in the background is in fact squeaking bed noises; and*

*(ii) secondly, already (i.e. not due to the advertisement) links that cacophony of noises to having sex.*

*The use of mobile phones and data usage for the purposes of social interaction is today a commonplace phenomenon. In many instances it serves an important social and community service, in a society where individuals are becoming more and more isolated. More people now turn to social networking applications to lawfully meet other people and to socially interact with them.*

*With respect, we believe that the complainant's concern is not really that the advertisement infringes paragraph 2.4 of the Code, but that as a community, people are resorting to social media to find partners and/or have social intercourse (this term being used in its broadest sense).*

*It must be accepted that by today's standards, it is lawful and common to use social media to engage in social intercourse (again in its broadest sense). We submit if this is accepted, then there is nothing offensive by our client's advertisement.*

*To the contrary, our client has attempted to sensitively deal with the issue of social intercourse (in its broadest sense) in a manner that would not necessarily be understood by a child (assuming that child who is not already familiar with the complaint's perception would link squeaking noises in the background to beds and then to sexual intercourse). It is only those people who already draw that link would implicitly draw the conclusion that that part of the advertisement means that the customer may use the data to get have more sexual intercourse (as opposed to social intercourse).*

*The background noises do not demean or treat social intercourse (or even sexual intercourse) in an insensitive manner. The advertisement, which is about the use of data for social intercourse (not simply sexual intercourse) progresses we submit in a way that a normal prudent social interaction would or should do so. That is, that a relationship develops and the people involved form a closer bond over time. There are a number of stages in a relationship, sexual intercourse being the last stage in the development of the relationship.*

*The suggestion that the advertisement is purely focused on sexual intercourse is clearly not supported by the actual content of the advertisement. Even if the sole objective of using the*

*data is to have more sexual intercourse, the advertisement just as clearly implies that before getting to that point, a process of socialisation or familiarisation is needed. The advertisement clearly refers to a safe and prudent progression in a relationship from first contact to the ultimate form of intimacy. This process of the developing the relationship is clear from the references to more swipes, to more matches, to more opportunities to make a favourable first impression, to more dates before getting to the implication of more sexual intercourse.*

*In conclusion, we submit that our client has not breaches paragraph 2.4 of the Code or any other relevant provision of the Code.*

*To the contrary, our client has dealt with the normal use of social media for social intercourse in a sensitive manner, and in a way that is unlikely to offend under current community standards any adult or child.*

*It would appear that the complaint has just simply focused on one aspect of the advertisement and missed the broader and more socially responsible overall message of the advertisement. Further the complaint we suggest is more offended by current social standards of interaction by the community (i.e. using social media as a form of social intercourse) rather than the advertisement dealing with sex, sexuality or nudity in an insensitive manner or in a manner that is inappropriate and offensive.*

## **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 complainant’s concerns that the advertisement features squeaking bed noises and a verbal reference to sex and is inappropriate for children to hear.

The Board reviewed the advertisement and noted the advertiser’s response.

The Board 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 Board noted this radio advertisement features a man explaining the Boost mobile data plan and in the background we can hear a squeaking noise.

The Board noted it had previously dismissed a similar complaint about another radio advertisement in case 0229/15 where:

“The Board noted that the audio features a rhythmic knocking noise and a woman’s moans...

...The Board noted the complainant’s concern that the advertisement is suggestive of sexual activity. The Board acknowledged that the rhythmic noises we hear, along with the woman’s moans, could be interpreted as noises consistent with sexual activity but considered that in light of the context provided by the voiceover – that the couple are practising their circus skills on a high-wire – the noises are easily explained and are not of themselves overly sexual

or inappropriate.

The Board acknowledged that the advertisement is employing sexual innuendo but considered that this innuendo is relatively mild and not inappropriate for a broad audience which would include children.”

In the current advertisement the Board noted that the male voiceover is talking about getting more ‘swipes, matches and chances to nail that opening line and dates’ and considered that although there is a strong reference to internet dating in the spoken words, the squeaking sound in the background is not accompanied by any voices or noises from people and in the Board’s view the sexual reference of the squeaking noise is mild and unlikely to be understood by children.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children and determined that the advertisement did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.