

Case Report

1. Case Number :	0008-23
2. Advertiser :	Wicked Campers
3. Product :	Travel
4. Type of Advertisement/Media :	Commercial Vehicle
5. Date of Determination	25-Jan-2023
6. DETERMINATION :	Upheld – Not Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This transport advertisement on a vehicle with SA registration S299 BTJ features the slogan, "Back in my day blowin' a tranny was car trouble".



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

This slogan is a strong transphobic slur that is very offensive. Trans young people are at very high risk for poor mental health, self-harming and suicide attempts. Around 3 in every 4 trans young people have experienced anxiety or depression. Four out of 5

trans young people have ever engaged in self-harm, and almost 1 in 2 trans young people have ever attempted suicide (48%). This is primarily because of how the world perceives and treats trans people. Having a vehicle driving around with a transphobic slur is perpetuating this. Two days after seeing a social media post showing this vehicle was still on the streets my son attempted suicide. These messages do have an effect on vulnerable people.

THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response.

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 a transphobic slur.

The Panel viewed the advertisement and noted the advertiser had not provided a response.

Section 2.1: Advertising or Marketing Communication shall not portray people or depict material in a way which discriminates against or vilifies 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 Panel noted the AANA Practice Note which provides guidance on the meaning of:

- Discrimination - unfair or less favourable treatment
- Vilification - humiliates, intimidates, incites hatred, contempt or ridicule
- Gender - male, female or trans-gender characteristics.

Does the advertisement portray material in a way which discriminates against or vilifies a person on account of gender?

The Panel noted that it had previously considered this advertisement in case 0087-22 in which:

"The Panel noted that "tranny" in the advertisement refers to a transmission in vehicles, and to transgender individuals or people who engage in cross-dressing. The Panel considered that the intended joke is that in the past "blowin a tranny" referred to a vehicle transmission blowing up/failing, and in

current times it refers to performing oral sex on a transgender or cross-dressing person.

The Panel noted that the use of the term “tranny” to refer to a transgender or cross-dressing individual is widely considered to be derogatory and offensive.

The Panel considered that a damaged vehicle transmission is a negative thing, one that no one would want, and likening it to a sexual act with a transgender or cross-dressing person suggests that that is also a negative and unwanted thing.”

Consistent with the previous determination, the Panel considered the slogan to be derogatory and vilifying towards transgender individuals and considered that the intended joke would not be considered humorous or acceptable by most reasonable adults.

Section 2.1 conclusion

Finding that the advertisement did portray material in a way which discriminates against or vilifies a person or section of the community on account of gender, the Panel determined that the advertisement did breach Section 2.1 of the Code.

Section 2.4: Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code states:

“Overtly sexual depictions where the depiction is not relevant to the product or service being advertised are likely to offend Prevailing Community Standards and be unacceptable. Full frontal nudity and explicit pornographic language are not permitted.”

Does the advertisement contain sex?

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 that a reference to a sexual act is a reference to sex. The Panel considered that the advertisement did contain sex.

Does the advertisement contain 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 by itself a depiction of sexuality.

The Panel considered that the advertisement referred to sex and therefore does depict sexuality.

Does the advertisement contain nudity?

The Panel 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 advertisement contained only text and did not contain nudity.

Are the issues of sex, sexuality and nudity treated 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 considered that the requirement to consider whether sexual suggestion is 'sensitive to the relevant audience' requires 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 suggestion is or might be is relevant to the Panel considering how some sections of the community, such as children, might perceive the advertisement.

The Panel noted that it had previously considered this advertisement in case 0087-22 in which:

"The Panel noted that the advertisement uses the phrase "blowin' a tranny" and considered that this reference to a sexual act is not appropriate for the back of a mobile van which is available to be seen by a broad audience, including children.

The Panel considered that the advertisement made a reference to a sexual act (oral sex) and that regardless of whether the viewer was familiar with the "joke", in the Panel's view the reference to oral sex is overtly sexual and does not treat a sexual reference with sensitivity to the likely broad audience which would see this advertisement on the back of a moving vehicle."

Consistent with the previous determination, the Panel considered that the advertisement did not treat a sexual reference with sensitivity to the relevant broad audience.

Section 2.4 Conclusion

The Panel determined the advertisement did not treat sex, sexuality and nudity with sensitivity to the relevant audience and did breach Section 2.4 of the Code.

Conclusion

Finding that the advertisement did breach Section 2.1 and 2.4 of the Code, the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advertiser has not provided a response to the upheld determination. Ad Standards will refer the matter to the SA Department of Infrastructure and Transport, in accordance with the provisions of the South Australian Statutes Amendment (Transport Portfolio) Act 2021.