

Case Report

1. Case Number :	0021-24
2. Advertiser :	Willy's World
3. Product :	Entertainment
4. Type of Advertisement/Media :	Poster
5. Date of Decision:	7-Feb-2024
6. Decision:	Upheld – Not Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity
AANA Code of Ethics\2.5 Language
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This poster advertisement is a cartoon and has two versions. One depicts two men in suits in a city landscape. The second depicts three women in underwear on a bed with their buttock raised as a man wearing a halo watches them while smoking a vape.



THE COMPLAINT

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

Willy's World, which is, I believe a podcast, that interviews, amongst others, porn stars, has put up 1 poster with porn content and 1 with an offensive gesture.

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 DECISION

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 features porn content and an offensive gesture.

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

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

Does the advertisement contain sex?

The Panel considered whether the advertisement contained sex. The Panel noted the definition of sex in the Practice Note is "sexual intercourse; person or persons engaged in sexually stimulating behaviour".

The Panel noted that the advertisement contains sexualised images. The Panel considered that the advertisement did not contain explicit sex scenes, however the overall impression of the advertisement is one of sexual activity. The Panel considered that the advertisement did contain sex.

Does the advertisement contain sexuality?

The Panel noted the definition of sexuality in the Practice Note is "the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters".

The Panel noted the depiction of the women in lingerie face down on the bed, and considered that the advertisement did emphasise sexual matters and does depict sexuality.

Does the advertisement contain nudity?

The Panel noted that the definition of nudity in the Practice Note is “the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity”.

The Panel noted that the women in the advertisement are depicted in underwear. The Panel considered that the depiction of people in underwear would be considered by some members of the community to be partial nudity.

Are the issues of sex and sexuality treated with sensitivity to the relevant audience?

The Panel noted that the definition of sensitivity in the Practice Note is “understanding and awareness to the needs and emotions of others”.

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 Panel noted that this advertisement was outdoors near a local shopping centre, and considered that the relevant audience was likely to be broad and include children.

The Panel noted that in the second poster three women were shown to be laying on their stomachs on the bed, with their buttocks raised in the air. The Panel considered that their poses, in combination with the man standing over them, was a suggestion that the women were objects available for sex or that they were being required to be sexually submissive. The Panel further considered that the advertisement was suggestive of group sex, and considered that the image was overtly sexual. The Panel considered that the advertisement did not treat the issues of sex, sexuality and nudity with sensitivity to the relevant 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.

Section 2.5: 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 complainant’s concern that the first poster included an offensive gesture. The Panel noted that gestures are a form of non-verbal language and as such fall within this section of the Code.

The Panel considered that it was not readily apparent what gesture the complainant was referring to. The Panel considered the entirety of the poster content and

concluded that there were no gestures used in the advertisement that would be clearly offensive to a broad audience.

Section 2.5 conclusion

The Panel determined that the advertisement did not breach Section 2.5 of the Code.

Section 2.6: Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel noted that the man in the second version of the advertisement was vaping.

The Panel noted that it has consistently upheld complaints about advertising which showed people smoking, such as in cases 0293-23, 0219-23, 0180-23, 0087-23, 0073-23, and 0024-22. In these cases the Panel considered that while the community tolerates a level of smoking it does not tolerate images which promote smoking as glamorous or fashionable.

The Panel considered that the man in the advertisement was portrayed in an aspirational and positive light, including being depicted with a halo and as sexually successful. The Panel considered that depicting the man vaping was glamorising the activity. The Panel noted that glamorising smoking of any kind is generally viewed as contravening prevailing community standards.

Overall, the Panel considered that the image glamorising vaping amounts to a depiction which is against prevailing community standards on health and safety.

Section 2.6 conclusion

The Panel considered that the advertisement did contain material contrary to Prevailing Community Standards on health and safety and determined that it did breach Section 2.6 of the Code.

Conclusion

Finding that the advertisement did breach Sections 2.4 and 2.6 of the Code, the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DECISION

The advertiser has not provided a response to the Panel's decision. Ad Standards will continue to work with the relevant authorities regarding this issue of non-compliance.