

Case Report

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| 1. Case Number : | 0030-24 |
| 2. Advertiser : | Pole Position |
| 3. Product : | Sex Industry |
| 4. Type of Advertisement/Media : | TV - Free to Air |
| 5. Date of Decision: | 7-Feb-2024 |
| 6. Decision: | Dismissed |

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This television advertisement depicts beer being poured into a glass in the foreground and a woman dancing against a pole in the background.



THE COMPLAINT

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

The ad is for an adult strip club and was aired at 8.50pm. I think this is too early for adult content. I think this should air after 10pm.

Advertising adult entertainment club and depicting a naked female at a time when impressionable children and youth were awake 9:30pm, in school holidays.

THE ADVERTISER'S RESPONSE

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

The ad is approved to run from 8:30pm onward as per ClearAds approval and classification.

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 sexualised content was inappropriate.

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

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 images are not appropriate in outdoor advertising or shop front windows.

"Although not exhaustive, the following may be considered to be overtly sexual:

- *Poses suggestive of sexual position: parting of legs, hand placed on or near genitals in a manner which draws attention to the region;*
- *People depicted in sheer lingerie or clothing where a large amount of buttocks, female breasts, pubic mound or genital regions can be seen; The use of paraphernalia such as whips and handcuffs, particularly in combination with images of people in lingerie, undressed or in poses suggestive of sexual position;*
- *Suggestive undressing, such as pulling down a bra strap or underpants; or*
- *Interaction between two or more people which is highly suggestive of sexualised activity.*

"Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisements for toiletries and underwear) is generally permitted but note the application of the relevant audience. More care should be taken in outdoor media than magazines, for example.

"Images of models in bikinis or underwear are permitted, however, unacceptable images could include those where a model is in a suggestively sexual pose, where underwear is being pulled up or down (by the model or another person), or where there is clear sexual innuendo from the ad (e.g. depicting women as sexual objects)."

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 considered that there is a single woman dancing against a pole in the advertisement and considered that the advertisement did not 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 that the advertisement featured a woman in lingerie pole dancing and considered that this was a depiction of 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 woman in the advertisement is depicted in lingerie, and considered that this is a depiction of partial nudity.

Are the issues of sexuality and nudity 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 the advertisement received an ‘A’ classification from FreeTV and therefore may be broadcast between 8.30pm and 5.00am on any day. In addition to the time restrictions, an advertisement classified “A” must not be shown before 9.30 pm during sports programs and films classified G or PG which commence before 8.30 pm and continue after 8.30 pm (unless it is a film which is neither promoted to children nor likely to attract a substantial child audience).

The Panel considered that the relevant audience for the advertisement was anyone watching free-to-air TV after 8:30pm, and that while this may include older children and teenagers the audience would be predominantly adult.

The Panel noted that the complainants' had viewed the advertisement at 8.50pm, and at 9.30pm during school holidays. The Panel considered that most young children would be in bed after 8:30pm, even during the school holidays. The Panel considered that there would be older children who viewed the advertisements while watching family viewing programs. The Panel considered that children would most likely not be watching these programs in the absence of older family members, even in school holidays, and would likely have a parent or guardian present when the advertisements were shown.

The Panel noted that the portrayal of the woman was in muted colours, creating an effect where she appears to be in the shadows, resulting in an image that lacks clarity and detail. This in conjunction with the prominence and brightness of the beer image gave less prominence to the woman and her actions.

The Panel acknowledged that the sexualised nature of the product itself may not be considered appropriate by people viewing the advertisement and noted that some members of the community would prefer that these types of businesses are not advertised, however considered that advertising them is legal and a promotion of such services is not of itself a breach of the Code.

The Panel considered that although the advertisement included a depiction of sexuality, the choice of images and style of the advertisement meant that it did treat the issue of sexuality with sensitivity to the relevant audience, being predominately adults.

Section 2.4 Conclusion

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

Conclusion

Finding that the advertisement did not breach any other section of the Code, the Panel dismissed the complaints.