

## Case Report

1. Case Number :	0039-24
2. Advertiser :	Yum Restaurants International
3. Product :	Food/Beverages
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	21-Feb-2024
6. Decision:	Dismissed

### ISSUES RAISED

AANA Advertising to Childrens Code\2.3 Sexualisation  
AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This television advertisement begins with a shirtless man exiting a bedroom, coming to face two women. They giggle and say good morning. A third woman exits the bedroom and the first says "Mum?". The group look awkward until the second woman says "Did someone say KFC?" The advertisement ends with the group sharing food.



### THE COMPLAINT

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

*The ad is premised on a casual sexual encounter between a young man and the mother of one of his flat mates. It was placed as the first ad during play in the 2nd Aus v WI cricket test immediately after the first over. This was just after 3pm on a school holiday day. I was watching with my 8 year old. This ad campaign has at least one other sexual narrative version which regularly appears during programs watched by children. I don't have a problem with the content generally, only the way that it is targeted at children.*

*I got no end of questions from my children about the add. Try explaining the contents to 12, 14 and 15 year olds.*

*I do not agree with the advertisement of a young female couple sitting on the lounge, when the young brother comes out of the bedroom with the mother of one of the girls. Really, where have our standards dropped to. This is wrong and should not be advertised on TV as ok!*

*It has inappropriate sexual connotations and is promoting the destabilizing of healthy relationships and is being shown during the BBL, which children frequently watch. The ad is promoting a family restaurant.*

*Highly offensive advertisement making the viewer assume sexual innuendos*

*It is morally offensive*

*The ad shows a mother coming from a young man's bedroom half naked. Nothing short of pornographic. I expect more on my tv*

#### **THE ADVERTISER'S RESPONSE**

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

*The KFC "Mum" TV advertisement is part of a light-hearted series that pokes fun at awkward moments in life and it was created in order to amuse consumers. KFC has strict review and approval processes in place to ensure all creative work adhere to relevant codes and standards before any television commercials are aired.*

*'Mum' boards were pre-checked with CAD prior to shooting and nothing was flagged in breach of AANA codes. The rating given was – D.*

*In relation to section 2 of the AANA code points 2.1, 2.2, 2.3 – there is no evidence of portrayal of vilification, discrimination, exploitation, degrading or violence. The characters resolve the situation laughing it off enjoying KFC.*

*Codes –*

*2.4 - Sex, sexuality and nudity – there is no depiction of full nudity or sexual acts.*

- 2.5 – Language – there is no harmful language used.*

- 2.6 - Health and Safety – there are no unsafe situations portrayed and the advertisement was filmed following all applicable safety guidelines and workplace regulations.*

*2.7 - Distinguishable as advertising – the film is clearly an advertisement as shown with clearly marked brand logo, product supers and appropriate disclaimers.*

*We follow the AANA advertising to children guidelines and restrictions. This means we never advertise within P and C (pre-schooler and children's) categorised airtime or in programs that are flagged upfront to attract more than a 25% child audience.*

*We undertake pre-pod checks on all airtime. Where data exists and a program is deemed to deliver more than 25% child audience (child being determined as under 15 years) we remove this program from our TV buys.*

*Whilst all upfront due diligence is taken, we obviously can't control live audience viewing or have full visibility on value placement. In general, our paid buying approach ensures we also steer clear of risky timeslots (e.g. 1830 weekend movies which often run animated films) to avoid any conflicts. Our network partners are aware of these buying restrictions as well.*

## **THE DECISION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Children's Advertising Code (the Children's Code) or the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement is inappropriate for placement where it may be viewed by children and the broad community.

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

The Panel noted that for the provisions of the Children's Code to apply, the advertisement must be found to target children under 15 years of age.

### **Does the advertisement target children?**

The Panel noted that the Children's Code defines "target children" as:

*"Target Children is determined by the context of the advertisement and the following three criteria:*

- 1. Nature and intended purpose of the product being promoted is principally or significantly appealing to Children;*
- 2. Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is principally appealing to Children;*
- 3. Expected average audience at the time or place the advertisement appears includes a significant proportion of Children."*

The Panel noted that the Practice Note provides guidance on the interpretation of "target children":

*“All three criteria will be considered by the Community Panel in determining whether or not advertising targets Children. The weighting given by the Community Panel to each of the three criteria will be determined on a case by case basis. In the event of a complaint being considered by the Community Panel, the advertiser should be in a position to provide details in terms of the nature and intended purpose of the product, the presentation of the advertisement content and the expected average audience at the time or place the advertisement appears.*

*“In relation to the third criteria, measures to determine if Children are likely to be a ‘significant proportion’ of the expected average audience may include one or a combination of the following:*

- Where data exists, 25% or more of the predicted audience will be Children. In relation to outdoor advertising, if across a campaign the data shows a predicted audience with less than 25% Children, and there is a Children’s event or concert that is incidental to the ad placement, the audience of that incidental Children’s concert or event will not be captured.*
- C&P programmes.*
- Programs, artists, playlists, video, movies, magazines or other content with significant appeal to Children (e.g. featuring personalities or characters popular with Children).*
- Compliance with the Outdoor Media Association Placement Policy and Health & Wellbeing Policy which regulate the placement of advertising at primary and secondary schools which are locations where Children regularly and predictably gather. Where accurate program audience data is not available, the Community Panel may have regard to other factors listed above such as the program content, the time or the location where the advertisement is being shown (in line with the above provision).”*

**Point 1: Is the nature and intended purpose of the product principally or significantly appealing to children?**

The Panel considered that the advertised product is fast food and considered that this would be significantly appealing to children.

**Point 2: Is the content of the advertisement principally appealing to children?**

The Panel considered that the advertisement depicts an awkward scene where it is implied that a man was intimate with his friend’s mother. The Panel considered that while uncomfortable, the context and scenario are adult and although may be viewed by children, would not be principally appealing to them.

**Point 3: Does the expected average audience of the advertisement include a significant proportion of children?**

The Panel noted that the advertisement was placed in broad programming, including in summer cricket coverage. The Panel noted the advertiser's response detailing their steps to ensure the audience was predominately adult. The Panel considered that while cricket is family viewing, the expected average audience at the time or place the advertisement appears did not include a significant proportion of children.

### **Targeting children conclusion**

The Panel considered that while the product would have appeal to children, the content of the advertisement was not principally appealing to children and audiences for the advertisement would not include a significant proportion of children. The Panel determined that the advertisement did not target children and therefore the provisions of the Children's Code did not apply.

### **Code of Ethics Section 2.4: Advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience.**

The Panel noted the Practice Note for the Code states:

*"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 noted that the couple are depicted exiting a bedroom with one still in underwear and considered that the implication is that they have been sexually intimate. The Panel considered that most members of the community would consider this scene to be depicting sexually suggestive behaviour.

### **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 considered that a reference to sexual intimacy is a depiction of sexuality and that the advertisement did contain 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 is clothed while the man is in underwear, and considered that some viewers may consider him to be partially nude.

#### **Is the issue of 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 this advertisement was placed on free-to-air television and considered that the audience would be broad.

The Panel considered that although the advertisement suggested that the couple were sexually intimate, the focus of the advertisement was on the uncomfortable situation. The Panel considered that the scene was not sexually provocative or explicit, and noted that all people in the advertisement appeared to be consenting adults.

The Panel considered that the advertisement contained mild sexual themes and that while some members of the community would prefer that sexual innuendo not be present in such advertising, most members of the community would not consider this offensive or inappropriate for the broad audience.

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

#### **Section 2.4 Conclusion**

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

#### **Conclusion**

Finding that the advertisement did not breach any other section of the Children's Code or the Code of Ethics the Panel dismissed the complaints.