



**Ad Standards** Community Panel  
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Advertising Standards Bureau Limited  
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# Case Report

1	<b>Case Number</b>	<b>0038/19</b>
2	<b>Advertiser</b>	<b>Thorne Harbour Health</b>
3	<b>Product</b>	<b>Community Awareness</b>
4	<b>Type of Advertisement / media</b>	<b>Billboard</b>
5	<b>Date of Determination</b>	<b>20/02/2019</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

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

## DESCRIPTION OF THE ADVERTISEMENT

There are four versions of this billboard advertisement. They all include images of two men, who are wearing briefs and are standing beside each other in slightly different stances and the words "SEXY HEALTH FOR EVERYBODY. TEST FOR STIs! GET TESTED, GET TREATED, NO DRAMA!"

## THE COMPLAINT

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

*This is being exposed to the general public and children in this setting. I'm offended that children/minors have to see this and read this message. It's not appropriate in this general population setting. Maybe at a gay or LGBTQ club but not at a public train platform.*

## THE ADVERTISER'S RESPONSE

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





*The image referred to in the complaint is from the 'Drama Downunder' campaign, which is run by Thorne Harbour Health. The advertisements included the images of two men, who are wearing briefs and are standing beside each other in slightly different stances. The copy accompanying each of the 4 advertisements included in the campaign was:*

*"SEXY HEALTH FOR EVERYBODY. TEST FOR STIs! GET TESTED, GET TREATED, NO DRAMA!" The copy is followed by the website URL [thedramadownunder.info](http://thedramadownunder.info) and the Thorne Harbour Health logo.*

*From the complaint you received on the 25 January 2019 it is asserted that our advertisements are in breach of section 2.4 of the AANA Advertiser Code of Ethics ("the code") — Sex/sexuality/Nudity S/S/N - general*

*In the complaint, the individual refers to the image depicting "two homosexual men", being concerned for the advertisement being "exposed to children", and that it would only be appropriate in a "gay club".*

*Firstly, the images that the complainant is referring to is of two models in their underwear, one of which has been used in Drama Downunder campaign advertisements that have been placed outdoors through various agencies since 2007/2008. The Drama Downunder images have been shown nationally and not once have we had the images described as "homosexual" or been advised of where such an advertisement should be displayed (i.e., "gay club"). In fact the first formative evaluation on the campaign image of a man in his underwear with a sexual health message reported that both heterosexual and homosexual men and women did not perceive this to be a "homosexual" specific campaign. It was described as being applicable to all men. In addition, homosexuality was decriminalised in Victoria in 1981 and in 2016 the Victorian Premier, Daniel Andrews issued a public apology in Parliament to those people convicted under unjust laws against homosexual acts, acknowledging the legacy of damage caused by systemic and institutional homophobia. Although there is nothing explicitly 'homosexual' about the image or the men in the advertisement, sadly, there is nothing new in the homophobic attitudes expressed by the complainant. The use of two men in the campaign was a change from previous years which arose from regular evaluations conducted by both independent consulting agencies and national research institutes that suggested our campaign needed to reflect a variety of age ranges, ethnicities and body types in society and expand the diversity of models in an effort to broaden the engagement of those who encounter the campaign imagery. This is the rationale for depicting two models in each advertisement.*

*It is important to emphasise that the creative execution does not allude to sexual acts, sexuality or nudity. The campaign imagery and messaging deals with sex indirectly,*



*and only to the extent that it delivers health promotion messages regarding sexual health. Further at no place within the advertisement is the sexuality of the model or the target audience mentioned and there is no nudity depicted. With this justification Thorne Harbour Health feels that the advertisements do not breach the code.*

*Another important consideration is that JCDecaux Australia consulted with the Outdoor Media Association (OMA) about the creative execution. The OMA were provided with the campaign prior to implementation. The OMA are the peak national industry body that represents most of traditional and digital outdoor media display companies and production facilities. The OMA provided JCDecaux Australia with approval that the images did not contravene community standards.*

*Further it could be argued that the images shown in our advertisements are similar to other advertisements that are specifically for underwear and/or clothing companies that show models clothed similarly (i.e., Bonds and Calvin Klein). For example, the Panel dismissed complaints 0002/15 and 0121/11, which were similar in nature to the complaint made against our campaign. It is also worth noting a previous decision by the Panel to dismiss complaint 0554/14 in which the advertisement did explicitly show nudity. It was decided that the advertisement did so respectively when viewing it in relation to the product, the target audience and the use of outdoor media. In addition, complaint 0053/15 and 0202/16 made against the Drama Downunder campaign, which were similar in nature with regard to displaying advertisements outdoor were both dismissed by the Panel. The use of outdoor media is an essential component of the Drama Downunder campaign and its strategy to engage with the community. Based on the latest evaluation listed as Appendix 2, the majority of participants 77% recall seeing the advertisements outdoor and as such the reach and effectiveness of the campaign is heavily reliant on the ability to advertise outdoors.*

*To further enable the Panel to put this campaign into context, we will provide some brief information regarding the rationale for the campaign. Data supplied by the Department of Health and Human Services shows an increase in STIs amongst the Victorian population and not just amongst gay men.*

*it can be seen that there has been a steady and significant increase in the main STIs between 2016 and 2018. As a result of the significant health burdens on the health system associated with undiagnosed and untreated STIs within the community, this campaign aims to increase health literacy amongst the general population and serve as a reminder to have a regular sexual health check. Furthermore, "implementing prevention education in community settings where people live, work and socialise to improve knowledge and awareness of STIs" is one of the priority areas for the Fourth National STI Strategy 2018-2022 produced by the federal department of health.*

*Lastly, it has to be noted that nearly 50% of the above STIs have no apparent symptoms, or symptoms that may be commonly attributed to something else.*



*Therefore it is imperative with supportive epidemiological evidence that the messages around sexual health be provided to the community, and the use of engaging outdoor media is the most effective way to reach the largest amount of people and thus to have the greatest impact.*

*With regard to the relevant sections of the code the Board has requested responses to, due to this complaint, we contend in terms of:*

#### *2.1*

*The campaign images listed in the complaint do not portray or depict people or material in a way that discriminates 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.*

#### *2.2*

*The campaign images listed in the complaint do not employ sexual appeal where a) children are depicted or b) in a manner that is exploitative or degrading of any individual or group of people*

#### *2.3*

*The campaign images listed in the complaint do not include violent elements nor portray violent situations.*

#### *2.4*

*As illustrated by the information presented above, the public health need and campaign imagery treats sex, sexuality and nudity with sensitivity to the relevant audience. The campaign imagery and messaging are in no way gratuitous and are consistent with and in response to an urgent public health need. The campaign imagery does not depict any form of sexual act, does not mention nor suggest the sexual orientation of any individual and depicts no forms of nudity.*

#### *2.5*

*The campaign images listed in the complaint do not use explicit or inappropriate language.*

#### *2.6*

*The campaign images listed in the complaint do not depict material contrary to the Prevailing Community Standards on health and safety.*



## 2.7

*The campaign images listed in the complaint are clearly distinguishable as advertising and marketing communication.*

*In conclusion, Thorne Harbour Health feels that despite the complaint received by the Ad Standard, the Drama Downunder images do not breach the AANA code of ethics for the following reasons:*

- 1. In the 11 years of the campaigns' public implementation the imagery has never been characterised as depicting homosexuals or deemed to only be appropriate in a gay club as stated in the complaint, and we infer that the person making the complaint has done so do with homophobic intent;*
- 2. The advertisement does not directly deal with sex, sexuality or nudity. The campaign imagery and messaging deals with sex indirectly, and only to the extent that it delivers health promotion messages regarding sexual health;*
- 3. The campaign imagery and messaging are in no way gratuitous and are consistent with and in response to an urgent public health need.*
- 4. The visual creative is consistent with other advertisements placed by underwear and clothing stores and implemented in similar ways;*
- 5. After due consideration, the OMA approved this creative for implementation to the general public;*
- 6. Lastly, the use of outdoor media is critical in being able to convey a significant public health issue to the relevant audience, and previous iterations of the campaign that have similar imagery that have had a complaint made against them have all been dismissed by the panel.*

*We look forward to receiving the results of the Board's consideration of these complaints.*

## **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's message is not appropriate for a broad audience.



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

The Panel 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 Panel noted that this billboard advertisement had several versions, all featuring two men in white underpants with text stating "Sexy health for everybody" and "Test for STI's! Get tested, get treated. No drama".

The Panel noted it had previously considered a similar outdoor advertisement in case 0053/15, in which:

"The Board noted that the man is wearing underpants and considered that the man's private area is sufficiently covered and the level of nudity was consistent with advertisements for lingerie. The Board noted the text on the advertisements and considered that the suggestions that men should get tested for syphilis are presented in a non-sexualised and practical manner. The Board acknowledged that some members of the community would prefer that this type of community awareness message was not promoted outdoors where children could view it but considered that overall the content of the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children."

And in case 0429/17 in which:

"Consistent with its determination in case 0053/15 the Board considered that the call to action to get tested and get treated is presented in a non-sexualised and practical manner. The Board acknowledged that some members of the community would prefer that sexual health messages not be advertised outdoors where children can view them but considered that in this instance the image is not sexually suggestive and the only sexual reference is in the text. In the Board's view the advertisement would not be understood as having any sexual content by young children and that overall the advertisement treats a sex-related subject matter in a subtle and informative manner aimed at educating members of the community."

Consistent with the previous determinations, the Panel considered that the advertisement is promoting an important community message.

The Panel considered that the advertisement does refer to sex, however the pose of the men is not overtly sexualised, other than by depicting men wearing only underwear, and the message is both impactful and subtle.

In the Panel's view the advertisement did treat the issue of sex, sexuality and nudity



with sensitivity to the relevant broad audience and that the advertisement did not breach Section 2.4 of the Code.

The Panel noted that some members of the community may not wish to see imagery representative of homosexuality, however the Panel has consistently determined, in cases 0074/16, 0223/17, 0072/18, that the depiction of homosexual couples kissing or embracing does not breach this section of the Code.

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

