

## RESPONSE FROM TVNZ

Further to your email received 03/11/2017 we wish to advise the Complaints Committee has completed its enquiry into your formal complaint about Naked Attraction shown on 27/10/2017 on TVNZ 2.

Your complaint has been considered with reference to Standard 1 of the Free-to-Air Television Code of Broadcasting Practice.

### The Decision

The Complaints Committee has not identified any breach of the relevant standard and accordingly declines to uphold your complaint. The reasons for this decision are discussed below.

### The Programme

*Naked Attraction* is a British dating game show where a clothed person selects two contestants from six naked people, whose bodies and then faces are revealed in stages from the feet up. The person choosing then appears nude to select one of the remaining two people for a fully clothed date. The people taking part in the programme are all different shapes and sizes; they represent “normal people” rather than being an idealized or “perfect” shape. The programme then presents each person’s feedback after the date, and after the other contestants are eliminated they talk to the camera explain how they found the process of being on the programme.

The aim of the programme is to reveal what men and women find physically attractive in others and whether choosing a partner on physical attraction alone can help people to find the ideal partner.

The series was developed by Free to Air Broadcaster, Channel 4, in the UK in 2016 and screened on the Free To Air channel there.

When the programme first aired in the UK, Ofcom, the UK’s communications regulator, stated that the material featured was ‘*justified in the context of the programme*’. A spokesman said: ‘*We carefully considered complaints about this programme. We found that the material was justified by the context of the programme, which is aimed at an adult audience and attempts to explore the nature of physical attraction. It was scheduled appropriately and clear warnings were given prior to broadcast.*’

In episode 1 which screened 27 October, Aina, a music producer from London, wants to find someone adventurous, who she can have a deeper connection with. She chooses Matty who has a prosthetic leg and an unusual tattoo. They discuss they have been on several dates and have much in common. Later designer Mal, who has dated men and women, is curious to see who she will be drawn to when she gets to choose between men and women for a date. She chooses Rebecca and they also hit it off.

*Naked Attraction* screened at 9.46pm, more than an hour after the AO watershed. The AO certificate means programmes containing adult themes and directed primarily at mature audiences. AO programmes may be screened between midday and 3pm on weekdays (except during school and public holidays as designated by the Ministry of Education) and after 8:30pm until 5am.

As *Naked Attraction* screened after 9.30pm it is useful to consider that there is an expectation in the standards that material screened after this time may be strong adult content which means having a greater degree of sexual activity, potentially offensive language, realistic violence, sexual violence or horrific encounters, which go beyond audience expectations of usual Adults Only content.

This episode was preceded by a full frame warning which stated: *AO This programme is rated adults only. It contains nudity.*

### Relevant Information

1. It is established that it is acceptable to see naked people (including their genitals) on Free to Air television. The BSA has not upheld complaints about this in decisions from 1998 and beyond:

- In decision 2007-116 the BSA found no breach of standards in regard to an episode of *How to Look Good Naked*, broadcast on TV One at 7.30pm on 31 August 2007, contained video footage of a number of women featuring bare breasts, buttocks and two brief full frontal shots of naked women. This programme was certified PGR.
- In decision 2009-103 the BSA found no breach of standards in regard to an episode of *Trinny and Susannah: The Great British Body* broadcast on TV One at 2pm on Saturday 25 July 2009. Throughout the series, style gurus Trinny and Susannah had travelled across Britain talking to people about their naked bodies, with the aim of changing the way Britons viewed their bodies and celebrating the qualities that made each of them unique. Throughout the episode, many people were shown completely naked, and breasts and buttocks were often shown close up. This programme was certified PGR.
- In decision 2012-016 the BSA found no breach of standards in regard to an episode of a reality series *Four Weddings*, in which four brides evaluate each other's weddings and compete for a honeymoon prize, was broadcast at 2pm on TV One on 26 December 2011. One of the wedding ceremonies was a "naturist" ceremony, and the bride and groom and most of the guests were shown naked. Clips of the ceremony were shown on occasion throughout the programme, and footage of the ceremony itself lasted approximately 3 minutes. This programme was certified PGR.
- In decision 2012-002 the BSA found no breach of standards in regard to an episode of *Embarrassing Bodies* which focused on vaginas. The episode which screened at 8.30 on 8 June 2012 contained close-up shots of women's vaginas and surgical operations. This programme was certified AO.
- In decision 2000- 039 the BSA found that an item on *One News* about nudist clubs which showed members of a nudist club "relaxing or playing sport" did not breach standards. The underlying timeslot for *One News* was G.
- In decision 1999-020 concerning a promo for *The Making of the Human Body* that screened between 6 and 8pm (G & PGR time) and included footage of naked men, women and children, the BSA found that the footage did not breach standards.
- In decisions 2006-109 and 2006-098 concerning footage of the erotica parade played in news broadcasts in G time (6pm). The BSA found that the footage of the bare-breasted women riding on motorbikes did not breach standards.
- In decision 1998-156 about a promo for *The Human Body* that showed a naked pregnant woman which screened in G time the BSA found no breach of standards.

The Committee notes that *the Films, Videos, and Publications Act 1993 does not restrict publications based on nudity alone.*

*In passing the Classification Act, the New Zealand Parliament decided that people's freedom to view or read something should only be restricted if there is a likelihood of harm to society - and something that's offensive isn't necessarily harmful* <https://www.classificationoffice.govt.nz/officials>

2. The Broadcasting Act does not regulate material which is on the internet and so the Complaints Committee cannot consider the availability of the programme OnDemand.

3. *Naked Attraction* is not pornography or "paedophile material".

- Pornography is defined as the depiction of explicit sexual behaviour that is intended primarily to arouse sexual desire in its audience. While genital nudity is depicted, it is not with the intention to arouse the

audience. The Committee does not consider that *Naked Attraction* is pornography.

- Paedophile material involves the exploitation of children, or young persons, or both, for sexual purposes. *Naked Attraction* did not contain any material of this nature.
- After 9.30pm is not considered to be children's normal viewing time, even on Friday night and broadcasters are permitted to screen AO, Adults Only, material at this time.

4. TVNZ has no control over classifications assigned by other broadcasters, eg SKY, and this cannot be considered by TVNZ in a formal complaints context.

#### The Relevant Standards

##### **Standard 1 – Good Taste And Decency**

***Current norms of good taste and decency should be maintained, consistent with the context of the programme and the wider context of the broadcast.***

##### *Guidelines 4*

*1a The context in which content occurs and the wider context of the broadcast are relevant to assessing whether a broadcast has breached this standard, including:*

*the nature of the programme and the channel*

*the programme's classification and scheduling*

*whether the broadcast was live or pre-recorded*

*the use of audience advisories, if any*

*the target and likely audience*

*audience expectations of the channel and the programme*

*the availability of filtering technology*

*the level of the broadcaster's editorial control over the content*

*the public interest in the broadcast.*

*1b Where broadcasters take effective steps to inform their audiences of the nature of their programmes, and enable viewers to regulate their own and their children's viewing behaviour, they are less likely to breach this standard.*

*1c If content is likely to offend or disturb a significant section of the audience, an appropriate audience advisory should be broadcast prior to the content.*

To constitute a breach of Standard 1 the material shown must be unacceptable to a significant number of viewers in the context that it is shown. Contextual factors include but are not limited to): the programme classification, the time of broadcast, the intended audience and the use of warnings (if any). In this case the relevant contextual factors are:

- *Naked Attraction* was certified AO, Adults Only and screened at 9.46pm, over an hour after the AO watershed.
- Broadcasters are permitted to screen AO material at this time and there is an expectation in the standards that parents monitor their child's viewing of Adults Only material.

- *Naked Attraction* was preceded by a full screen written warning which advised of the Adults Only content including nudity.
- *Naked Attraction* including full-frontal nudity and discussions of an adult nature containing some sexual inferences.
- Full frontal nudity is permitted on Free to Air channels as outlined under 'The Programme' above. In this case as the nudity was somewhat sexualised as participants talked about what type of bodies appealed to them the programme was certified AO. The Committee finds that the programme was appropriately classified.
- The programme was popular in the 18 – 49 age group with a reach of over 140,000 people watching this episode.

Accordingly the Committee finds that the programme would not have offended a significant number of viewers in the context of screening. No breach of standard 1 has been identified.

Right to Refer to Broadcasting Standards Authority and Time Limit

In accordance with section 7(3) of the Broadcasting Act you are hereby notified that it is your right, should you be dissatisfied with this decision, to refer the matter to the Broadcasting Standards Authority, P O Box 9213, Wellington, as provided under section 8 of the Act, for the purpose of an investigation and review of the decision. You have 20 working days after receipt of this letter to exercise this right of referral. 5

Yours sincerely

***Complaints Committee***