

AANA Code of Ethics Review Discussion Paper
Suite 301, 100 William Street
Sydney NSW 2011
Email: aanasubmissions@aana.com.au

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ATTN: AANA Code of Ethics Review Group

Submission on the AANA Code of Ethics Review Discussion Paper

Collective Shout (www.collectiveshout.org) is a grassroots movement challenging the objectification of women and sexualisation of girls in the media and popular culture. We target corporations, advertisers, marketers and media which exploit the bodies of women and girls to sell products and services, and campaign to change their behaviour. More broadly we also engage in issues relating to other forms of sexploitation, including the inter-connected industries of pornography, prostitution and trafficking.

Global research documents the harms of sexually objectifying imagery

Our work is underpinned by a mounting body of evidence which documents the real harms of exposure to sexualised and sexually objectifying imagery to women, children and men. For example, a meta-analysis of two decades of research shows that sexually objectifying portrayals of women lead to the viewer's perception that women are less competent, less moral and less-than-human¹. A 2018 paper² published by Women's Health Victoria showed sexual objectification of women in advertising and media to have the following harmful effects:

- When women are exposed to sexually objectifying images of women, they are at risk of self-objectification and associated mental health conditions, such as eating disorders and self-harm;
- Women feel less safe and less welcome in spaces where sexualised imagery is displayed;
- When men are exposed to images that objectify women they are more tolerant of sexual harassment and interpersonal violence, and are more inclined to blame women for the violence they suffer.

Other studies show the harms of exposure to sexualised imagery in advertising and media to children. For example, children are at risk of sexualisation³ which contributes to:

¹ Ward, L.M. Media and Sexualization: State of Empirical Research, 1995–2015, *Journal of Sex Research*, 2016. (<https://www.tandfonline.com/doi/abs/10.1080/00224499.2016.1142496>)

² Women's Health Victoria. *Advertising (in)equality: the impacts of sexist advertising on women's health and wellbeing*, December 2018, [https://womenshealthvic.com.au/resources/WHV_Publications/Issues-Paper_2018.12.06_Advertising-inequality-the-impacts-of-sexist-advertising_Dec-2018_\(Fulltext-PDF\).pdf](https://womenshealthvic.com.au/resources/WHV_Publications/Issues-Paper_2018.12.06_Advertising-inequality-the-impacts-of-sexist-advertising_Dec-2018_(Fulltext-PDF).pdf).

³ Rush, E. et al. Corporate Paedophilia Sexualisation of children in Australia, The Australia Institute, 2006. (https://www.tai.org.au/sites/default/files/DP90_8.pdf)

- body image concerns
- eating disorders
- gender stereotyping
- sexualised behaviour
- increase in risk of child sexual abuse by undermining the important social norm that children are sexually unavailable

The Australian Psychological Society told the Senate Committee Inquiry into the sexualisation of children in 2008: “the values implicit in sexualised images are that physical appearance and beauty are intrinsic to self esteem and social worth, and that sexual attractiveness is a part of childhood experience... Girls learn to see and think of their bodies as objects of others’ desire, to be looked at and evaluated for its appearance.⁴ In addition, advertising plays a crucial part in socialising men and boys to see the sexual objectification of women and girls as normal.

Violence against women

We believe that while Federal, State and Territory governments invest resources to end violence against women, there is no room for corporate behaviours that harm women and girls or contribute to a culture that is tolerant of violence against women. Yet, due largely to self-regulation, certain advertisers continue their harmful conduct, unabated.

The NSW Government expressed its concerns on the issue of the harms of sexist advertising in its 2016 report on sexualisation of children and young people.⁵ In line with the National Plan to Reduce Violence Against Women and their Children 2010-2022, it maintained that “such stereotyping contributes to attitudes that support or justify violence against women and girls”.

In their National Plan Fourth Action Consultation Summary Report, the Department of Social Services noted the recommendation of “challenging and countering the objectification of women in the media and popular culture” in aid of stopping violence at its source.⁶

While there is increasing recognition of issues related to violence against women, there is at the same time an increasing pornification of public space. Members of the public - including children - are conducting life’s activities against a backdrop of sexualised images that objectify and demean women.

⁴ Standing Committee on Environment, Communications and the Arts, Sexualisation of children in the contemporary media, June 2008, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Completed_inquiries/2008-10/sexualisationofchildren/report/index.

⁵ Parliament of New South Wales Committee on Children and Young People, Sexualisation of Children and Young People, November 2016, <https://www.parliament.nsw.gov.au/ladocs/inquiries/2264/Sexualisation%20of%20Children%20and%20Young%20People%20-%20Report.pdf>.

⁶ Department of Social Services, Fourth Action Plan (2019–22) Consultation summary report, 2018, (<https://plan4womenssafety.dss.gov.au/wp-content/uploads/2019/02/fourth-action-plan-consultation-summary-report-2-2.pdf>)

Failings of self-regulation

Collective Shout believes that public spaces should be safe and welcoming for all members of the community. However, the self-regulated advertising system tends to serve the commercial advantage of corporate and marketing interests to the detriment of the community. Despite a number of state and federal inquiries demonstrating the need for systemic reform, self-regulation has failed to halt or even hinder the proliferation of imagery and messaging through electronic, print and social media marketing and advertising that demeans women, reduces them to sexual objects, fosters a culture which condones sexual violence, and pressures young girls to act in prematurely sexual ways. For example, the 2008 Senate Inquiry into the Sexualisation of Children in the Contemporary Media Environment concluded that “the onus is on broadcasters, publishers, advertisers, retailers and manufacturers to take account of these community concerns [about the sexualisation of children]”⁷. Following the 2011 inquiry into the regulation of billboards and outdoor advertising, the House of Representatives Standing Committee on Social Policy and Legal Affairs placed the advertising industry on notice, stating:

“if the industry does not demonstrate over the next few years that self-regulation can appropriately operate within the bounds of community expectations for appropriate outdoor advertising, then the Committee strongly recommends that the Australian Government institute regulatory measures”⁸.

That was nine years ago and nothing has improved. In fact, we have seen a worsening in the nature and proliferation of sexualised and sexually objectifying content in advertisements in the public space. As evidence, we refer to 25 separate Honey Birdette advertisements found in breach of the Code from August 2018 to August 2019.⁹ We believe this number would be even higher if not for conditions that have enabled the Ad Standards Community Panel to dismiss complaints against porn-themed advertisements in some instances, and its refusal to even accept complaints for review in other instances.

Collective Shout is therefore critical of the self-regulatory system currently favoured in media and advertising which allows free rein to advertisers while placing the burden of taking action on those most at risk of exploitation and harm¹⁰. In particular, we are concerned about the lack of effective incentive to comply with the Code, as well as the total absence of any enforcement provisions and/or

⁷ Standing Committee on Environment, Communications and the Arts, Sexualisation of children in the contemporary media, 2008

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Completed_inquiries/2008-10/sexualisationofchildren/report/index

⁸ House of Representatives Social Policy and Legal Affairs. Reclaiming Public Space: Inquiry into the regulation of billboard and outdoor advertising, 2011.

https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=pla/outdoor%20advertising/report/index.htm

⁹ Ad Standards Case Reports on Honey Birdette advertisements, August 2018-August 2019,

https://adstandards.com.au/cases?keywords=&advertiser=honey+birdette&start_date%5Bdate%5D=01%2F08%2F2018&end_date%5Bdate%5D=30%2F8%2F2019&determination=All&grouping=4

¹⁰ Collective Shout has documented the many failings of self-regulation. See ‘25 Reasons Why Ad Industry Self-Regulation is a Disaster’ for a comprehensive list:

https://www.collectiveshout.org/reasons_why_ad_industry_self_regulation_is_a_disaster.

PO Box 781, Neutral Bay, NSW 2089 ABN 30 162 159 097 e team@collectiveshout.org www.collectiveshout.org

penalties to deter those who are not only making a profit from the sexual objectification of women but are actively contributing to the known harms that causes. Media and advertising interests have had ample opportunity to hear and act on community concerns but have instead have chosen to protect their vested interests.

Exposure to sexualised imagery a form of sexual harassment

Our concerns about sexualised imagery in advertising extend to the fact that while individuals are protected in most areas of public life from having to look at sexualised imagery (the Sex Discrimination Act protects from harassment in employment, buying and selling of good and services, education and accommodation), advertisements escape proper scrutiny and treatment. We note the Australian Human Rigths Commission definition of sexual harassment which is

*‘any unwanted or unwelcome behaviour that is sexual in nature’.*¹¹

The AHRC lists the display of ‘posters of a sexual nature’ as an example of sexual harassment.¹² We maintain that to publicly display sexualised and sexually objectifying advertisements in the public space is to subject the public to unwanted and unwelcome behaviour that is sexual in nature. That is to say, behaviour equivalent to sexual harassment that is both a breach of human rights and of law when it occurs in other areas of public life is aided and abetted by the self-regulated advertising system. We maintain that forced exposure to sexualised and sexually objectifying imagery is a breach of human rights regardless of whether the imagery is attached to an advertisement.

In our submission to the National Inquiry into Workplace Sexual Harassment we noted that workplaces featuring sexualised and objectifying advertising material are more likely to increase the risk of sexual harassment, and that objectifying advertising present in public spaces can lead to a hostile working environment for workers carrying out their duties.¹³ We also noted that many Australians carry out their work in the public space and are subjected to sexualised and sexually objectifying imagery in the process. We argue that no Australian worker should be excluded from protections against sexual harassment in the workplace regardless of the fact that their employment duties are carried out in public spaces. It is a discredit to the advertising industry that people - women and girls in particular - are experiencing sexual harassment as a direct result of its failing system.

UK and France restrict harmful advertising

While Australia’s advertising industry claims ‘best practice’ of its self-regulated model, the UK and France have leap-frogged our system with various restrictions on sexism and objectification in advertisements. As of July, the Advertising Standards Authority (ASA) prohibits a range of harmful

¹¹ <https://www.humanrights.gov.au/quick-guide/12096>

¹² *ibid.*

¹³ Collective Shout, Submission to The Australian Human Rights Commission National Inquiry into Sexual Harassment in Australian Workplaces, 27 February 2019, https://d3n8a8pro7vmtx.cloudfront.net/collectiveshout/pages/3126/attachments/original/1558066560/submission_289_-_collective_shout.pdf?1558066560

depictions of gender stereotypes in advertising. Regarding the UK ban, CEO of the ASAUK Advertising Standards Authority, Guy Parker, said:

“Our evidence shows how harmful gender stereotypes in ads can contribute to inequality in society, with costs for all of us. Put simply, we found that some portrayals in ads can, over time, play a part in limiting people’s potential. It’s in the interests of women and men, our economy and society that advertisers steer clear of these outdated portrayals, and we’re pleased with how the industry has already begun to respond”¹⁴.

In 2017, the Council of Paris responded to the problem of sexist, degrading and dehumanising depictions of people in advertising by mandating that its newly contracted billboard advertiser refrain from all such depictions in its advertisements. In a statement, Mayor Anne Hidalgo condemned such advertisements that “maintain ordinary sexism and help to trivialize a form of everyday violence”.¹⁵ France’s measures are undergirded by policies that aim to improve the status of women.

We believe the advertising industry in Australia must also take stock of its contribution to a culture that defines the value of women and girls by their sex appeal and that fosters tolerance for the abuse of women and girls. We believe that in the process of reviewing its Code of Ethics, the AANA must consider and implement measures that will uphold human rights as well as the community standard, procure a genuine sense of obligation from all advertisers in all advertising activity at all times and end advertisers’ complicity in the harm of women and girls. We hope that the recommendations from this review will lead to proper scrutiny of the Code and a more effective framework for reining in recalcitrant advertisers which have thus far shown no concern (and even disdain) for the Code requirements and community standards. Human rights, public accountability and corporate social responsibility should be the guiding principles of advertising activity, and particularly of the advertising industry’s Code of Ethics, not profit margins.

In light of the above preliminary observations, we now turn to addressing some of the specific questions posed in the Discussion Paper, adopting the numbering of the particular questions we seek to address.

1. Does the Code of Ethics continue to meet its stated objectives? If not, why not?

Collective Shout is aware of the generally positive review of the self-regulatory scheme for advertising carried out by Deloitte Access Economics in August 2017.¹⁶

Nonetheless that report noted:

¹⁴ <https://www.asa.org.uk/news/ban-on-harmful-gender-stereotypes-in-ads-comes-into-force.html>

¹⁵ Tankard Reist, M. Why Australia should Follow France’s lead on ‘Degrading’ Sexist Advertising. Australian Broadcasting Corporation, 20 April 2017, <https://www.abc.net.au/religion/why-australia-should-follow-frances-lead-on-degrading-sexist-adv/10095846>

¹⁶ Deloitte Access Economics, *Assessing the benefits of a self-regulatory advertising complaints handling system*, Aug 2017, https://adstandards.com.au/sites/default/files/final_benefits_of_self-regulation.pdf

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“Given that there is no legislative backing to dealing with complaints about community standards in advertising in relation to self-regulation, there are circumstances where enforcement can be a challenge.”¹⁷

The Deloitte review reports a compliance rate of 84% with Ad Standards decisions for 2016. It should be noted that the compliance rate dropped to 56% in 2018 and is sitting at 57% for the first nine months of 2019. To say that “there are circumstances where enforcement can be a challenge” is highly euphemistic in circumstances where there are no enforcement mechanisms.

A Code which is completely ignored in over 40% of cases where breaches are found is patently not meeting its stated objectives to “*Ensure that advertisements and other forms of marketing communications are legal, decent, honest and truthful and that they have been prepared with a sense of obligation to the consumer and society and a sense of fairness and responsibility to competitors*”.

One notorious repeat offender is Honey Birdette.

Ad Standards has made determinations on 64 advertisements by the lingerie firm Honey Birdette between April 2010 and September 2019.¹⁸ In 26 cases Ad Standards dismissed the complaints while in 38 cases the advertisements were determined to have breached the Australian Association of National Advertisers (AANA) Code of Ethics.

However, in only 12 of these cases was the advertisement modified or discontinued in response to the adverse determination.

Out of these 12 cases of alleged compliance with a determination, in five cases reported as “Upheld-modified or discontinued” the advertiser’s response indicates that the advertisement complained about had now been replaced simply as part of the usual rotation of campaigns. For example, in case 0056/18 determined on 21 February 2018, the advertiser reported that the offending advertisements had been replaced on 6 March 2018 as a new campaign was launched then¹⁹. It appears then, that advertisements held by Ad Standards to fail to treat sexuality in a manner “*sensitive for the broad audience, which would include children*” remained on display for twelve days and may have been seen by many more members of the public, including children, during that time.

In the remaining 26 cases Honey Birdette chose to ignore the adverse determination and continued to display the offending advertisement without any modification. In one case they simply changed the colour of the lingerie.

The advertiser responded to six of these adverse findings in three cases stating, with arguments, that

“Ad Standards decision is one we do not agree with”; in two cases expressing astonishment or disappointment; and in one case being openly defiant: “The current

¹⁷ Ibid., p.15

¹⁸ All data on and quotes from cases are verifiable by searching the database at: <https://adstandards.com.au/cases>

¹⁹ <https://adstandards.com.au/cases?ref=0056/18>

posters will remain displayed in our windows until our Christmas campaign is complete” (Case 0541/17 determined on 6 December 2017)²⁰.

Ad Standards does not have appeared to have responded further to these rebuttals or defiance.

In the remaining cases – beginning with case 0311/18 determined 11 July 2018²¹ - Ad Standards nonchalantly reports in the identical wording for each case “*The advertiser has not provided a response to the Panel's determination. Ad Standards will continue to work with the relevant industry bodies regarding this issue of non-compliance.*”

It is not clear who these “industry bodies” may be. Clearly they have not been of any help in achieving compliance.

In any event, these words are meaningless as Ad Standards has absolutely no power to enforce compliance with its determinations. Honey Birdette’s recalcitrance highlights the Code’s failure to meet its stated objectives since - as evidenced by 38 breaches of Code - it shows that the Code and the complaints system it underpins do not procure a ‘sense of obligation to society’ from certain advertisers who set their own standards for advertising to the detriment of the public. Rather than ensuring that community standards are upheld, the Code and the connected complaints handling system readily accommodate repeated violations of community standards without consequences for the offenders .

2. Do the current objectives need to be amended? If so, what are the objectives that the Code of Ethics should address?

We believe the Code’s objectives fail to:

1. account for the real-life harm suffered primarily by women and girls, and the public health issues that ensue, as a result of exposure to sexualised and sexually objectifying imagery in advertising;
2. account for the human rights violations that coincide with certain breaches of Code;
3. induce advertisers into compliance.

The self-regulated nature of the advertising industry means that the community is entirely dependent on the goodwill and sense of advertisers to meet the Code’s objectives. As we have pointed out, some advertisers demonstrate no concern and even disdain for the community standard. This is despite a growing demand upon companies to demonstrate Corporate Social Responsibility: we - members of the public - expect that companies will conduct business with due consideration of human rights and of the social and environmental impact of their activities.

Since 2008 Wicked Campers has been found in breach of the Code in 100 separate rulings²², often for its misogynistic and abusive slogans that have advocated for the rape, torture and murder of women.

²⁰ <https://adstandards.com.au/cases?ref=0541/17>

²¹ <https://adstandards.com.au/cases?ref=0103/19>

²² Ad Standards Case Reports for Wicked Campers, https://adstandards.com.au/cases?keywords=wicked%20campers&advertiser=&start_date%5Bdate%5D=&end_date%5Bdate%5D=&determination=37&grouping=1&page=1

In 85 of these cases, Wicked Campers ignored the rulings without penalty. It has taken cooperation from all state and territory transport departments to at last rein in Wicked Campers' recalcitrance through laws that will enable states and territories to deregister vehicles with offensive messages. This example serves the argument for a regulated advertising system that carries meaningful penalties for advertisers that breach the Code - not self-regulation.

Ultra Tune, another repeat offender, has attracted public complaints against 39 of its advertisements. Ad Standards has most often dismissed complaints against Ultra Tune's sexist and objectifying portrayals of women, upholding complaints in just eight cases. Ultra Tune routinely portrays women as 'stupid' and 'helpless', and has stooped so low as to depict Mike Tyson - a convicted sex offender - as a hero. Yet the advertisements have been ruled as in compliance with the Code and with community standards²³.

We believe that the harm perpetrated by corporates like Honey Birdette, Wicked Campers and Ultra Tune extends beyond the terms provided in the Code or in the broader complaints handling system. That is to say, we believe in many instances, particularly regarding breaches of Sections 2.2 and 2.4, these are not merely violations of an industry code but that these are violations of human rights. We refer again to the Australian Human Rights Commission definition of sexual harassment which is 'any unwanted or unwelcome sexual behaviour' including 'displaying images of a sexual nature'.²⁴ We are concerned that while legislation exists to protect people from such behaviour in most areas of public life (employment, buying and selling of goods and services, education and accommodation), advertisers are free to display harmful and degrading sexualised imagery and messages, that is, to engage in activity that is described by the AHRC as 'sexual harassment', with impunity. We believe the objectives of the Code should be amended to reflect a respect for human rights that is afforded (and enforced) in other areas of public life.

Recommendation 1:

The current objectives should be amended to ensure that advertisements do not at any time breach certain rights, namely:

- **an individual's right to engage in public life free from unwanted exposure to sexualised and sexually objectifying imagery;**
- **an employee's right to carry out work duties free from unwanted sexualised and sexually objectifying imagery²⁵, acknowledging that many employees carry out their work duties in the public space where advertisers display advertisements;**
- **a child's right to grow up free from activities that harm development, acknowledging that exposure to sexualised and sexually objectifying imagery can lead to premature sexualisation and harms a child's developing understanding of sex and sexuality;**

²³ Ad Standards Case Report 0026-18, <https://adstandards.com.au/sites/default/files/reports/0026-18.pdf>

²⁴ <https://www.humanrights.gov.au/quick-guide/12096>

²⁵ Collective Shout, *Submission to The Australian Human Rights Commission National Inquiry into Sexual Harassment in Australian Workplaces*, 27 Feb 2019, https://d3n8a8pro7vnm.cloudfront.net/collectiveshout/pages/3126/attachments/original/1558066560/submission_289_-_collective_shout.pdf?1558066560 and Australian Human Rights Commission, Sexual Harassment, <https://www.humanrights.gov.au/quick-guide/12096>

- a tenant's right to quiet enjoyment, free from unwanted exposure to sexualised and sexually objectifying imagery displayed by advertisers in the vicinity of the tenant's residence.

5. Are there any other comments on the contents and structure of the Code, Practice Note or Industry Practice Notes?

Advertisements lend to the sexualisation of children not only when they portray children in a sexualised way but also when they expose children to sexualised and sexually objectifying content.

The Industry Practice Note 'Managing the Portrayal of People' Item 4 (Rights and Dignity of Minors) should consider not only how minors are *portrayed* in advertising but how minors in the audience *perceive* advertising. In the same way the Industry Practice Note prohibits the portrayal of minors in a sexualised way, it should also prohibit the exposure of minors to sexualised and sexually objectifying portrayals of others - particularly women - in advertising. As noted earlier, exposure to such imagery is particularly harmful to adolescent and young girls who are at risk of internalising body ideals and developing low self-esteem, eating disorders & body dissatisfaction.

Recommendation 2:

Amend the Industry Practice Note 'Managing the Portrayal of People' Item 4 to say that advertisements - particularly those intended for display in public spaces and therefore viewing by children - are to be prepared in recognition of:

- research demonstrating the harms children suffer as a result of exposure to sexualised and sexually objectifying imagery
- a child's right to grow up free from activity that harms development

Recommendation 3:

All amendments to the Code, Industry Practice Notes and Practice Notes should be made in consultation with the international research along with child and youth development experts, to ascertain the possible impact of advertising with sexualised content or messaging, on this audience.

11. Are any changes required to Section 2.2 of the Code of Ethics? If yes, please give reasons.

Some of the cases that have been dismissed raise a concern about how well the standards expressed in the AANA Code of Ethics reflect community standards – or at least how those standards are interpreted in Ad Standards determinations.

For example in case 0005/17 determined on 8 February 2017 the Board opined:

The Board noted that there is a level of community concern about the sexualisation of children and acknowledged the placement of the advertisement meant that the relevant audience was very broad and could include children. The Board noted that the style of lingerie worn by the women in the advertisements is sheer and includes straps and neck collars. The Board noted that this lingerie is sold in the store and considered that although it is reasonable for advertisers to promote their products they should take care when using products which have a more sexualised, bondage look rather than

*just normal lingerie. The Board noted that the type of lingerie being modelled in these advertisements is designed to be of visual appeal rather than comfortable for the wearer and considered that although the advertiser is targeting female customers it should be noted that the complainants are themselves women.*²⁶

All excellent points! However, the Board dismissed the complaint apparently concluding that women finding such sexualised objectification offensive or parents concerned about the impact of such imagery on their children are outliers in the range of community standards whose concerns cannot be allowed to prevail.

It is not clear whether the changes to Section 2.2 made in March 2018 sufficiently address this issue.

Recommendation 4:

Section 2.2 should be amended to account for the fact that it is exploitative and degrading to expose (not only portray) Minors to imagery that employs sex appeal, to say:

Advertising or Marketing Communication shall not employ sexual appeal:

(a) where images of Minors, or people who appear to be Minors, are used, or where Minors are presumed to form part of the audience;

Section 2.2 should be amended to account for the breach of human rights that occurs when advertisements are exploitative and degrading of individuals to say:

(b) in a manner which is exploitative or degrading and therefore violating the human rights of any individual or group of people

12. Are any changes required to the Practice Notes for section 2.2? If yes, please give reasons.

In the definition of EXPLOITATIVE part (b) refers to depictions of persons “*focusing on their body parts where this bears no direct relevance to the product or service being advertised.*” This qualification undermines the effectiveness of this provision in creating a woman, family and child friendly public space.

Advertisements for certain lingerie shops, sex shops, brothels and strip clubs have been assessed as justified because the product being sold – women’s bodies as sexual objects in the case of brothels and sex clubs, products to objectify women’s bodies as sexual objects in the case of sex shops and lingerie stores such as Honey Birdette – includes an inherent focus on women’s breast and genitals.

We recommend removing the phrase “*where this bears no direct relevance to the product or service being advertised*”. The product being sold should make no difference to the depiction, in an exploitative manner, of women’s bodies as sexual objects.

²⁶ <https://adstandards.com.au/cases?ref=0005/17>

In the final sentence of the Practice Note the reference to the medium being a factor which could affect whether a depiction is exploitative or otherwise is inappropriate. The Community Panel has dismissed graphic, porn-themed ads on the basis that they are displayed, for example, on Out of Home TV, as a series of flashing images rather than a single, still image. The practice note should be amended to remove the reference to 'medium'. This should aid consistency in rulings with respect to an advertisement's content and the context in which it appears and reinforce that if an advertisement is degrading and/or exploitative in one format (for example, in a poster) it is degrading and/or exploitative in all others.

The Community Panel has ruled that porn-themed, sexualised and sexually objectifying advertisements comply with Section 2.2 on the basis that the model appears "confident" or "relaxed". The Practice Note should be amended to reflect the fact that portrayals of sexual agency or power do not override or eliminate the objectifying characteristics of an advertisement. Research shows that even when an ad portrays a woman as 'sexually powerful' it has the same harmful impact as ads that portray women as 'sexually passive'.²⁷

More weight needs to be given in this Practice Note to the rights of women, families and children to enjoy the use of public spaces, including roadways and shopping centres, without being confronted by sexualised imagery.

This applies to both 2.2 and 2.4 of the Code.

In its decision on a Honey Birdette advertisement in a shopping centre the Ad Standards panel noted:

"The Panel acknowledged that the sexualised nature of the product itself may not be considered appropriate to be advertised in public facing areas by some people shopping in the centre, including those with young children, however in this instance the Panel considered that there was no sexual messaging or themes in the advertisement which would make it confronting for these audiences."

The gap between parents with young children naturally finding such advertisements not "appropriate" in a public space and the elitist, dismissive view that the images were not "confronting for these audiences" needs to be bridged. The very fact of complaints suggests that the advertisements are confronting for at least a significant segment of this audience. As well as parents with young children, many women (and men) find such advertising inappropriate in a public space. A change.org petition asking for an end to Honey Birdette's porn-themed advertisements in family-friendly shopping centres has so far attracted 75,000 signatures²⁸. The petition suggests that a much larger portion of the public takes issue with sexualised, demeaning, porn-style portrayals of women in the public space than the advertising industry has accounted for.

²⁷ Women's Health Victoria, *Advertising (in)equality: the impacts of sexist advertising on women's health and wellbeing*, December 2018, p. 5, [https://womenshealthvic.com.au/resources/WHV_Publications/Issues-Paper_2018.12.06_Advertising-inequality-the-impacts-of-sexist-advertising_Dec-2018_\(Fulltext-PDF\).pdf](https://womenshealthvic.com.au/resources/WHV_Publications/Issues-Paper_2018.12.06_Advertising-inequality-the-impacts-of-sexist-advertising_Dec-2018_(Fulltext-PDF).pdf)

²⁸ <https://www.change.org/p/stop-allowing-honey-birdette-using-porn-style-advertising-in-your-family-friendly-shopping-centres>

Recommendation 5:

Amend the Practice Note to 2.2 by:

- deleting the phrase “where this bears no direct relevance to the product or service being advertised” from the definition of EXPLOITATIVE;
- in the final sentence delete “or medium”;
- including a statement that portrayals of sexual agency or power do not override or eliminate the objectifying characteristics of an advertisement;
- adding “Outdoor advertising, including in shopping centres and other publicly accessible spaces, should be subject to a higher standard to ensure that women, children and families can enjoy the use of public space without being exposed to inappropriate imagery.”

16. Are any changes required to Section 2.4 of the Code of Ethics? If yes, please give reasons.

The Community Panel refers to the dictionary definition of ‘sensitive’ in its determinations. For example:

*“The Panel considered the meaning of ‘sensitive’ and noted that the definition of sensitive in this context can be explained as indicating that ‘if you are sensitive to other people’s needs, problems, or feelings, you show understanding and awareness of them.’ (https://www.collinsdictionary.com/dictionary/english/sensitive) The Panel considered that the requirement to consider whether sexual suggestion is ‘sensitive to the relevant audience’ is a concept requiring them to consider who the relevant audience is and to have an understanding of how they might **react to or feel about the advertisement** (emphasis added) – the concept of how subtle sexual suggestion is or might be is relevant to the Panel considering how children, and other sections of the community, might consider the advertisement.”²⁹*

We believe that the reference to ‘sensitivity’ in Section 2.4 reduces the complaints process to dealings with individual offences. This trivialises the documented harms of exposure to sexualised and sexually objectifying representations of women in advertising and media. It also fails to account for the human rights violations that occur when individuals are forced to view sexualised imagery against their will. We believe the Code should be amended to prevent such trivialisation.

Recommendation 6:

Amend Section 2.4 by replacing ‘shall treat sex, sexuality and nudity with sensitivity to the relevant audience’ with ‘shall acknowledge that unwanted exposure to sexualised imagery is a violation of human rights and prioritise the health, safety and well-being of the relevant and the broad audience that includes children by treating sex, sexuality and nudity in advertising with the same due diligence prescribed for other areas of public life’.

17. Are any changes required to the Practice Notes for section 2.4? If yes, please give reasons.

²⁹ <https://adstandards.com.au/sites/default/files/reports/0238-19.pdf>

Recently, the Ad Standards Community Panel dismissed complaints against a graphic, porn-style ad, claiming that certain stylistic features aided the advertisement's compliance with the Code.³⁰ The claims were made without evidence and in direct violation of what we - as long-time advocates against the sexual objectification of women and sexualisation of children - understand the community standard to be. We maintain that stylistic elements such as *framing, lighting, text, pixelation* and *flashing* do not eliminate the sexualised and sexually objectifying features of an ad, and can, on the contrary, enhance those features.

Recommendation 7:

Amend Practice Note 2.4 to:

- **delete references to 'relevance' to the product or service being advertised, since sexual objectification can occur regardless of the product or service being advertised**
- **add "Outdoor advertising, including in shopping centres and other publicly accessible spaces, should be subject to a higher standard to ensure that women, children and families can enjoy the use of public space without being exposed to inappropriate imagery."**
- **provide that digital alteration (e.g. photoshopping of genitals or nipples), and the use of stylistic elements (including framing, lighting, text, pixelation and flashing) do not eliminate the sexualised and sexually objectifying features of an advertisement.**

26. Are there any other issues, rules or standards that should be included in the Code of Ethics? If so please, give details.

i. The AANA must account properly for the self-regulated nature of its industry and ensuing lack of compliance from individual advertisers. As the United Nations Global Compact points out:

'..businesses have a responsibility to respect human rights whether operating in areas of weak governance or in a more stable context.'

(<https://www.unglobalcompact.org/what-is-gc/mission/principles>)

Recommendation 8:

The Code should be amended to include an a priori respect for human rights. This would pave the way for certain breaches of Code to be recognised as human rights violations and prevent the conflation of reports of suspected breaches from community members with 'advertising complaints'.

In line with this, advertisers that breach the Code should be recognised as entities engaged in human rights violations - rather than as mere dissenters from a self-regulated industry code.

³⁰ <https://adstandards.com.au/sites/default/files/reports/0238-19.pdf>

ii. The United Nations Global Compact Ten Principles are intended to guide socially responsible corporate activity and minimise contributions to human rights violations.

Recommendation 9:

The Code should be amended to reflect:

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and

Principle 2: make sure that advertisers are not complicit in human rights abuses.

The Code should be amended to prioritise the preservation of human rights in all advertisements and to eliminate advertisers' complicity in human rights breaches.

iii. In our submission the Australian Human Rights Commission Inquiry into Workplace Sexual Harassment³¹, we made several recommendations including:

- That the Inquiry contain scope for respondents to indicate sexual harassment in the form of “unwanted exposure to sexualised imagery” as per advertisements they encounter in the course of employment;
- That the Inquiry address the flaw in current legislation whereby sexual harassment (“unwanted exposure to sexualised imagery” in advertising) occurring in public space is relegated to “advertising complaints” subject only to a self-regulatory system that allows repeat offending with no effective penalties.

People are protected from unwanted exposure to sexualised imagery in virtually all realms of public life: employment, buying and selling of goods and services, education and accommodation. It is a discredit to certain advertisers, and to the advertising industry as a whole, that self-regulation accommodates human rights violations that are illegal in most areas of public life, as prescribed by the Sex Discrimination Act.³²

Recommendation 10:

The Code should be amended to compensate for legal shortcomings, to state that advertisements featuring sexualised imagery and slogans and displayed in the public space that would be prohibited from display in any workplace are in direct violation of the Code's objectives and specifications.

27. Do you know of any other evidence-based research which could inform the evolution of the Code of Ethics? If so, please give details.

³¹ Collective Shout, *Submission to The Australian Human Rights Commission National Inquiry into Sexual Harassment in Australian Workplaces*, 27 Feb 2019, https://d3n8a8pro7vhm.cloudfront.net/collectiveshout/pages/3126/attachments/original/1558066560/submission_289_-_collective_shout.pdf?1558066560

³² <https://www.humanrights.gov.au/quick-guide/12096>

As referenced above, there is a growing body of evidence that pervasive advertising that sexualises and objectified women is associated with *“a greater support for sexist beliefs, attitudes that blame victims for sexual violence, a greater tolerance of sexual aggression, and men’s use of sexually coercive behaviour. Attitudes and beliefs that condone violence against women ... the effectiveness of interventions to ... reduce violence against women in other settings, such as in schools and workplaces, will be undermined if businesses, brands and the advertising industry continue to rely on ... sexualised portrayals.”*³³

Recommendation 11:

The AANA should take into account the significant and compelling body of global research that documents the real-life harms of exposure to sexualised and sexually objectifying imagery in the current review and in all future amendments to the Code. Advertisers must grasp the seriousness of their behaviour. They must acknowledge that when they violate community standards and the requirements of the Code, they are contributing to cultural attitudes that give a green-light to the sexual harassment of and violence toward women.

We thank the AANA for the opportunity to contribute to its review of the Code of Ethics. If we can be of further assistance to the AANA in its review of the Code please let us know.

Yours sincerely,



Melinda Tankard Reist
Movement Director, Collective Shout



Kylie Virtue
Chair, Collective Shout

³³ Women’s Health Victoria, *Advertising (in)equality: the impacts of sexist advertising on women’s health and wellbeing*, December 2018, p. 6, [https://womenshealthvic.com.au/resources/WHV_Publications/Issues-Paper_2018.12.06_Advertising-inequality-the-impacts-of-sexist-advertising_Dec-2018_\(Fulltext-PDF\).pdf](https://womenshealthvic.com.au/resources/WHV_Publications/Issues-Paper_2018.12.06_Advertising-inequality-the-impacts-of-sexist-advertising_Dec-2018_(Fulltext-PDF).pdf)