



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0421-19
2. Advertiser :	Honey Birdette
3. Product :	Lingerie
4. Type of Advertisement/Media :	Poster
5. Date of Determination	22-Jan-2020
6. DETERMINATION :	Upheld - Not Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.2 Exploitative or Degrading
AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This poster advertisement features two women in black lingerie standing next to a man in a Santa outfit. One of the women has her hand on his hat, pushing it down over his eyes. The accompanying words state, 'Axl Santa baby'.

THE COMPLAINT

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

The centre is a family friendly place that is frequented by young children. My ten year old granddaughter said to me "That's just not right Nan", when she looked to see what very young boys were pointing and laughing at. I contacted centre management on 16th December but I have had no response.

This advertisement is not suitable for display in public places where children would be present. The style of lingerie is extremely high cut around the pubis region. This advertisement should be limited to within the store only so that those that choose to enter can see it.



Children should not be exposed to pornography or the subjection of females. Children should not be exposed to sexual content.

It's in public space and offensive, not to mention the sexualisation of "young" women on public display.

Children exposed to inappropriate posters in a shopping centre. Women wearing revealing underwear posing with a Santa, a character who is directed at children.

THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response.

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 complainants' concerns that the advertisement:

- sexually objectifies the woman
- resembles images that would be seen in porn publications
- features Santa which would be attractive to children
- is not suitable for public display where children are present children
- features skimpy lingerie and exposed genitalia.

The Panel viewed the advertisement and noted the advertiser did not provide a response.

The Panel considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: "Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people."

The Panel noted the complainant's concern that the advertisement objectifies the women.

The Panel noted that the advertised product is lingerie and the advertiser is justified in showing the product and how it would be worn provided that in doing so it meets the provisions of the Code.

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:



Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised. Degrading – lowering in character or quality a person or group of people.

The Panel first considered whether the advertisement used sexual appeal.

The Panel considered that the depiction of women in sheer and strappy lingerie is a depiction which most people would consider to contain sexual appeal.

The Panel then considered whether the advertisement used sexual appeal in a manner that was exploitative of an individual or group of people.

The Panel considered that the women were depicted in a confident scene with a man and their depiction in lingerie was relevant to the product being sold. The Panel considered that the women were not depicted in a vulnerable position and were not depicted as objects or commodities. The Panel considered that there was no focus on a part of the woman's body that was not directly relevant to the product being promoted.

The Panel then considered whether the advertisement used sexual appeal in a manner that was degrading of an individual or group of people.

The Panel considered that the depiction of the models and the accompanying text did not lower the character or quality of the model and did not use sexual appeal in a manner that was degrading of the model.

On that basis, the Panel determined that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of an individual and did not breach Section 2.2 of the Code.

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 considered whether the advertisement contained sex, sexuality or nudity.

The Panel noted the Practice Note for the Code states:

"Images which are not permitted are those which are highly sexually suggestive and inappropriate for the relevant audience. Explicit sexual depictions in marcomms, particularly where the depiction is not relevant to the product or service being advertised, are generally objectionable to the community and will offend Prevailing Community Standards."

The Panel noted the complainants' concerns that the advertisement:



- resembles images that would be seen in porn publications
- features Santa which would be attractive to children
- is not suitable for public display where children are present children
- features skimpy lingerie and exposed genitalia.

The Panel considered whether the images depicted sex. The Panel noted the dictionary definition of sex most relevant to this section of the Code of Ethics is 'sexual intercourse; sexually stimulating or suggestive behaviour.' (Macquarie Dictionary 2006).

The Panel considered that the depiction of women in revealing lingerie is not of itself a depiction of sexual intercourse, sexual stimulation or suggestive behaviour. The Panel considered that there was no sexual touching or interaction between the three people in the advertisement and that the advertisement as a whole did not contain sex.

The Panel considered whether the advertisement featured sexuality.

The Panel noted the definition of sexuality includes 'sexual character, the physical fact of being either male or female; The state or fact of being heterosexual, homosexual or bisexual; sexual preference or orientation; one's capacity to experience and express sexual desire; the recognition or emphasising of sexual matters'. The Panel noted that the use of male or female actors in an advertisement is not of itself a depiction of sexuality.

The Panel considered that the style of lingerie being promoted was sexualised and that this did add an element of sexuality to the advertisement. The Panel determined that the advertisement did contain sexuality

The Panel considered whether the advertisement contained nudity and noted that the dictionary definition of nudity includes 'something nude or naked', and that nude and naked are defined to be 'unclothed and includes something 'without clothing or covering'. The Panel considered that the Code is intended for the Panel to consider the concept of nudity, and that partial nudity is factor when considering whether an advertisement contains nudity.

The Panel considered that the bodysuit of the woman on the left was extremely high cut and a large amount of the woman's pubic mound was exposed. The Panel noted that the cut-out style of the advertisement meant that the women's cleavage was also visible. The Panel considered that the woman's genitals were not exposed, but that many members of the community would consider the woman's pubic region and cleavage being exposed to be partial nudity.

The Panel then considered whether the advertisement treated the issue of sexuality and nudity with sensitivity to the relevant audience.



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 – 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.

The Panel noted that this image appears in store windows and considered that the relevant audience includes retail and service workers, people shopping in the Honey Birdette store and people who are not shopping at Honey Birdette but who are walking past the store, and that this last group would be broad and would include children.

The Panel noted that the bodysuit worn by the model in on the left was very high cut and left a large amount of the woman's pubic area exposed. The Panel noted that the lingerie worn in the advertisement is available for purchase at Honey Birdette, however considered that products must still be advertised in a manner that is suitable for advertising on the front window of a store that is located in a shopping centre.

The Panel considered the Practice Note for the Code which provides:

"Full frontal nudity and explicit pornographic language is not permitted. Images of genitalia are not acceptable. Images of nipples may be acceptable in advertisements for plastic surgery or art exhibits for example."

The Panel considered that although the women's cleavage was visible, their full breasts and nipples are not exposed, and there is no focus on the women's breasts in the advertisement.

The Panel noted that the woman on the left's genitals were not visible and there was a focus on her pubic region due to the style of the lingerie. The Panel considered that most members of the community would consider this to be a high level of nudity.

The Panel considered that the advertisement included an image of a man dressed as Santa, and that this would likely attract the attention of children passing the store.

The Panel considered that the high level of nudity in conjunction with an image of Santa did amount to a depiction which did not treat the issues of sex, sexuality and nudity with sensitivity to the relevant broad audience.

The Panel determined the advertisement did breach Section 2.4 of the Code.



Finding that the advertisement breached 2.4 of the Code, the Panel upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advertiser has not provided a response to the Panel's determination. Ad Standards will continue to work with the advertiser and other industry bodies regarding this issue of non-compliance.