Case Report

1. Case Number :	**0177-24**
2. Advertiser :	**Gotham City**
3. Product :	**Sex Industry**
4. Type of Advertisement/Media :	**Billboard**
5. Date of Decision:	**3-Jul-2024**
6. Decision:	**Upheld – Modified or Discontinued**

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This mobile billboard advertisement is on a trailer with Victorian registration R40 042. The advertisement features a black and white image of a woman from behind, she is bending over and the focus of the image is on her buttocks.

The text on the image reads, "Gotham City House of Sin. Australia's Best Venue."



THE COMPLAINT

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

Mobile pornographic billboard. There is no option to 'ignore' or look away from this offensive ad while you are following this vehicle in traffic. You are literally forced to see this image at close range for an extended period.

THE ADVERTISER'S RESPONSE

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

Firstly, our business operates as a legally sanctioned brothel. We are authorized by law to provide sexual services and to advertise our establishment. Currently, we are utilizing a mobile billboard to promote our "Christmas in July" event.
Our advertising content adheres strictly to guidelines that prohibit any form of discrimination or vilification of individuals. All sexual services are provided by consenting adult women who are legally of age, being 18 years or older.
Our advertisements are designed to celebrate the beauty of women without exploiting or degrading them in any manner. Each advertisement features a single woman dressed in lingerie, ensuring that there is no nudity, overtly sexual poses, or any content beyond what would typically be utilized by a lingerie company.
Regarding the complaint, we suggest that the complainant consult a chiropractor to address any issues related to limited neck movement they may be experiencing. Our truck is duly registered and operates in full compliance with road regulations. The condition of the roads and the prevailing traffic situation are beyond our control and not our responsibility.
The use of the term "Mobile Pornographic Billboard" in the complaint indicates a misunderstanding of our advertisement. However, the fact that the complainant could not look away suggests that the advertisement is effective. We encourage the complainant to visit our establishment, where they can learn more about our services and perhaps address any personal concerns they may have.

THE DECISION

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 concerns that the advertisement is overtly sexual and inappropriate for display in a public space.

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

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:

> *"Overtly sexual images are not appropriate in outdoor advertising or shop front windows.*
>
> *"Although not exhaustive, the following may be considered to be overtly sexual:*
> *• Poses suggestive of sexual position: parting of legs, hand placed on or near genitals in a manner which draws attention to the region;*
> *• People depicted in sheer lingerie or clothing where a large amount of buttocks, female breasts, pubic mound or genital regions can be seen; The use of paraphernalia such as whips and handcuffs, particularly in combination with images of people in lingerie, undressed or in poses suggestive of sexual position;*
> *• Suggestive undressing, such as pulling down a bra strap or underpants; or*
> *• Interaction between two or more people which is highly suggestive of sexualised activity.*
>
> *"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 there is only one person pictured in the advertisement and there was no indication that they were involved in sexual activity.

The Panel considered that the advertisement did not contain sex.

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 noted that the advertisement was for a brothel and featured an image of a woman in lingerie and in a sexual pose. The Panel considered that the advertisement did contain 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 image depicted a woman in lingerie exposing her buttocks and considered that this was a depiction of partial nudity.

Are the issues of sex, sexuality and 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 image appears on a mobile billboard on public streets in Melbourne at all times of day and considered that the relevant audience would be broad and would include children.

The Panel considered that the woman was depicted in a sexualised pose, bending over with her legs parted, and there was a strong focus on her exposed buttocks. The Panel considered that the image was overtly sexual.

The Panel considered that this depiction was not appropriate for the relevant broad audience of daytime Melbourne pedestrians and road-users.

The Panel considered that the advertisement did not treat the issues of sex, sexuality and nudity with sensitivity to the relevant audience.

Section 2.4 Conclusion

The Panel found that the advertisement did breach Section 2.4 of the Code.

Conclusion

Finding that the advertisement did breach Section 2.4 of the Code, the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DECISION

The advertiser has provided a statutory declaration stating that the image has been removed.