



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0011-20
2. Advertiser :	Tesalate
3. Product :	House Goods Services
4. Type of Advertisement/Media :	Print
5. Date of Determination	22-Jan-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This print advertisement features an image of a woman sitting on a towel on the edge of a wooden platform over turquoise water. The model is wearing a bikini.

Three smaller images below show a woman shaking sand off a towel, a man holding onto a wooden pole leaning over water with a towel over his shoulder and a close up of the product packaging next to a woman seated on the beach.

Text accompanying the image has the heading, "From Bondi Markets to the world THE TESALATE STORY" and includes information about the product and the company's history.

THE COMPLAINT

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

It is disrespectful to women, using an obscene pose like that to sell towels. The women in the picture looks vulnerable and like she is caught off guard in the picture. A quick look at their website and it seems like making sexually suggestive poses is the way to sell towels, according to them.



THE ADVERTISER'S RESPONSE

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

There is no sexual content in this ad (2.4) and it is not exploitative or degrading (2.1).

We at Tesalate take this matter seriously, as we do the depiction of our models in our advertisements. We challenge the belief of the complainants' that this advertisement is inappropriate.

We are advertising beach towels, and it is reasonable for an advertiser to use attractive models in their swimwear. The swimwear in question is inline with current trends, the models are not sexual or suggestive in any way, the advertisement does not feature any explicit nudity.

The model has her back turned, so the emphasis is not on the model or her swimwear but on our product which is the towel.

We believe this advertisement is in line with the Code of Ethics.

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 is sexualised and is disrespectful to women.

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

The Panel noted that Section 2.2 of the Code states: "Advertising or marketing communications should not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people."

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

"Exploitative - means (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 woman in the top image in the advertisement was viewed from behind wearing a bikini and sitting with her legs part, over the corners of the platform. The Panel considered that a depiction of an attractive woman in a bikini was a depiction which contained 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 depiction of the woman in the swimsuit was consistent with the water front location. The Panel considered that whilst some of the woman's buttocks can be seen on either side of her bikini, this was not the focus of the advertisement. The Panel considered that the advertisement featured multiple images of the product, and information about the product, and did not feature a focus on the woman's body parts. The Panel considered the woman was posed in an artistic and highly stylised manner to draw attention to the advertised product, and that she was not depicted as an object or commodity. The Panel noted that there was no focus on the body parts of the other people in the advertisement and that they were not depicted as objects or commodities.

The Panel considered that the advertisement did not use sexual appeal in a manner that was exploitative of of an individual or group of people.

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 woman, and other people in the advertisement are depicted in activities where they are in control and are depicted in a manner that appears confident and comfortable in the situations. The Panel considered that the woman and other people depicted in the advertisement were not depicted in a manner that was degrading of an individual or group of people.

The Panel determined that the advertisement did not employ sexual appeal that was exploitative or degrading of any person or group of people and therefore 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 is sexualised.

The Panel considered whether the advertisement 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 people in swimwear is not of itself a depiction of sexual intercourse, sexual stimulation or suggestive behaviour and that the advertisement as a whole did not contain sex.

The Panel considered whether the advertisement contained 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 advertisement does not contain any sexual themes. The Panel considered that whilst the woman in the top image was depicted as wearing a swimsuit, this in itself was not a depiction of sexuality.

The Panel determined that the advertisement did not 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 noted that the top image depicted the woman in a high cut bikini bottom which showed a large amount of buttocks, and considered that some members of the community would consider this to be a depiction of nudity.

The Panel considered whether the depiction of nudity was treated 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 considered that the advertisement was placed in an aeroplane magazine which would have a mostly adult audience, but which also may be seen by children.

The Panel noted that the woman is photographed from behind and that there is no view of between her legs. The Panel considered that the woman’s buttocks being visible was consistent with current swimwear fashions. The Panel considered that the depiction of the woman in swimwear was appropriate considering the advertised product was beach towels.

The Panel considered that while the advertisement may be viewed by a broad audience including children, the level of nudity was mild and would not be considered confronting by most members of the community.

The Panel determined the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

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