



Ad Standards Community Panel
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Case Report

1. Case Number :	0014-22
2. Advertiser :	Universal Hotels
3. Product :	Alcohol
4. Type of Advertisement/Media :	Outdoor
5. Date of Determination	2-Feb-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.4 Sex/sexuality/nudity
AANA Code of Ethics\2.5 Language

DESCRIPTION OF ADVERTISEMENT

This outdoor advertisement features signage with the words "Lick her here".

THE COMPLAINT

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

The sign is offensive to women and offensive in general. If there was a similar sign put up saying 'lick him here' they would not be allowed to put it up. In this day and age they are trying to rid places using sexist or degrading words. They may have been trying to be amusing and using an alternative to 'Liquor ' but it is not appropriate and the sign should be completely removed. I have seen the sign for years. I didn't know who to complain to and I also thinks this stops others complaining. The Sydney City Council advised me they approved the DA with normal signage (I assume saying Brighton up Bar) and the owners have put in plastic inserts to change it. The council says they can't do anything about it and to complain to advertising standards.

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 complainant's concern that the advertisement uses sexist and degrading words.

The Panel viewed the advertisement and noted the advertiser had not provided a response.

Name of business

The Panel noted that it was unclear whether 'Lick Her Here' was actually the name of the bottle shop which used to be at that location attached to the hotel.

The Panel noted that while the original bottle shop business that had installed the sign was no longer there, the hotel and bar were still operational and the signage was the same as the signage for the bar.

The Panel noted the definition of advertising in the Code is:

- (a). any advertising, marketing communication or material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer,*
- over which the advertiser or marketer has a reasonable degree of control, and*
 - that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct,*
- (b). but does not include:*
- labels or packaging for products*
 - corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy*
 - in the case of broadcast media, any material which promotes a program or programs to be broadcast on that same channel, station or network.*

The Panel noted that it is reasonable for an advertiser to include the name of its business in its advertising, and that it is not the role of the Panel to regulate the names of businesses.

However, in this instance the Panel noted that there was no bottle shop with that name at the premises and the signage in the same font, colour and size as the signage for the bar could be seen as a promotion for the bar. The Panel noted that the hotel



would have control over the sign and that the sign was promoting the availability of alcohol in the premises. The Panel considered that the sign did meet the definition of advertising and the Code of Ethics did apply.

Section 2.1: Advertising shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

The Panel noted the AANA Practice Note which provides guidance on the meaning of:

- Discrimination - unfair or less favourable treatment
- Vilification - humiliates, intimidates, incites hatred, contempt or ridicule
- Gender - refer to the attributes, roles, behaviours, activities, opportunities or restrictions that society considers appropriate for girls or boys, women or men. Gender is distinct from 'sex', which refers to biological differences.

Does the advertisement portray people or depict material in a way which discriminates against or vilifies a person on account of gender?

The Panel considered that the advertisement was clearly a play on words which used old-fashioned humour to promote the sale of alcohol.

The Panel considered that the phrase, while sexual, was not a suggestion that women generally were deserving of unfair or less favourable treatment.

The Panel also considered that the limited phrasing did not humiliate, intimidate or incite hatred, contempt or ridicule of women generally.

Overall, while the advertisement contained sexualised and gendered language the advertisement did not rise to the level of discrimination against or vilification of women.

Section 2.1 conclusion

Finding that the advertisement did not portray material in a way which discriminates against or vilifies a person or section of the community on account of gender, the Panel determined that the advertisement did not breach Section 2.1 of the Code.

Section 2.4: Advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

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 considered that the advertisement may be seen to contain a reference to oral 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 considered that some members of the community would consider the phrase “lick her here” to be a sexual reference. 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 advertisement contains text only and considered that there is no nudity depicted.

Is the issue of sexuality 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 advertisement was a sign out the front of a venue which sold alcohol, and the relevant audience would be broad and include children.

The Panel considered that the advertisement does feature a double entendre in its reference to liquor, being phonetically similar to ‘lick her’

The Panel considered that the advertisement was text only and did not have any imagery. The Panel noted that this phrase would be unlikely to be understood as sexual by young children. The Panel considered that this innuendo, while vulgar and dated, was not explicit..

Section 2.4 Conclusion

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.



Section 2.5: Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

The Panel considered that while the language in the advertisement is sexualised, it is not explicit. The Panel considered that most members of the community would not find the phrase “lick her here” to be strong or obscene language, particularly when considering the context of the advertisement to be referring to liquor.

Section 2.5 conclusion

The Panel determined that the advertisement did not breach Section 2.5 of the Code.

Conclusion

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.

ABAC

The Panel noted that advertisements about alcohol products may be considered against the provisions of the AANA Advertiser Code of Ethics as well as the Alcohol Beverages Advertising Code Scheme (ABAC). The Panel noted that complaint/s in this case were referred to ABAC for assessment. The Panel noted that the ABAC Responsible Alcohol Marketing Code (ABAC Code) is an alcohol specific code of good marketing practice and has specific standards which apply to the promotion of alcohol products. The Panel further noted that it can only consider complaints about alcohol advertising under the concept of prevailing community standards as set out by the AANA Code of Ethics. The Panel noted that the advertisement may be considered by the ABAC Chief Adjudicator or the ABAC Adjudication Panel applying the ABAC Code, as well as this determination under the Code of Ethics.