



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0028-20</b>
<b>2. Advertiser :</b>	<b>Honey Birdette</b>
<b>3. Product :</b>	<b>Lingerie</b>
<b>4. Type of Advertisement/Media :</b>	<b>Poster</b>
<b>5. Date of Determination</b>	<b>22-Jan-2020</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This poster advertisement depicts a woman in black mesh bra, underpants and suspender. The advertisement is titled Axl.

### THE COMPLAINT

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

*This is a graphic sexualised image and has no place in the public space. Regardless of whether the woman appears 'confident' and regardless of the advertiser's intentions, exposure to this type of imagery is connected to real-life harm and hostility. The ads face the common space- space which does not belong to the advertiser. The advertiser exhibits unconscionable conduct in its repeated failure to properly account for community standards and an audience that includes minors when it prepares its ads.*

### 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 is a graphic sexualised image and is not appropriate for display in a public shopping centre.

The Panel viewed the advertisement and noted the advertiser did not respond.

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

The Panel considered whether the advertisement treated depicted 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 lingerie being promoted was sexualised and that this did add an element of sexuality to the advertisement. The Panel considered that the depiction of the woman wearing this style of lingerie was relevant to the product being promoted. The Panel considered that the pose of the woman standing with her



head tilted back, in combination with the lingerie, was sexualised. 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 a factor when considering whether an advertisement contains nudity.

The Panel noted that the lingerie worn by the woman covered her breasts and genitals. The Panel considered that the way the woman was standing and the style of the lingerie meant that a large amount of the woman's buttock was visible. The Panel considered that the advertisement contained partial nudity.

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

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 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 recent research into community perceptions found that the general community were more conservative than the Panel's determinations relating to sexual imagery and nudity in advertising, and that the level of concern over nudity and sexualised content in advertising has been increasing over the last 10 years



([https://adstandards.com.au/sites/default/files/2007-2017\\_community\\_perceptions\\_web.pdf](https://adstandards.com.au/sites/default/files/2007-2017_community_perceptions_web.pdf)).

The Panel noted that the lingerie the woman is wearing covers her breasts completely. The Panel considered that while a portion of the woman's buttocks is visible, it is offset with mesh which aids in reducing the focus. The Panel considered that there is no explicit focus on her body parts, and the level of nudity in the advertisement is mild.

The Panel considered that although she was depicted with her head tilted slightly back, this appeared to be an artistic pose rather than a sexualised pose.

The Panel considered that the pose of the woman was not sexualised and that the woman was appropriately covered. The Panel considered that children viewing the advertisement would view a woman standing in a comfortable pose in black lingerie, and would not view the advertisement as sexualised.

The Panel considered that while the advertisement did contain a mild level of sexuality, it was not overtly sexualised or inappropriate for the relevant broad audience.

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

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