



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0041-20
2. Advertiser :	Diamonds 176
3. Product :	Sex Industry
4. Type of Advertisement/Media :	Print
5. Date of Determination	22-Jan-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This print advertisement in the Classified Advertisements section depicts a woman in black underpants reclining. She has black stars over her nipples and groin.

THE COMPLAINT

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

I find the photograph used in the advertisement extremely unsuitable for a local family newspaper. It depicts a woman wearing only a suspender belt and stockings, poised in a position ready for sex, with an aroused expression on her face. The photograph originally appeared with nude coloured stars over her nipples and pubic area. They have now been replaced with black stars. The photograph is very large and unmissable. The weekly publication usually runs a "find the frog" competition, where readers are encouraged to scour the pages and classifieds, looking for the hidden frog. The prize is movie tickets and the competition is suitable for all age groups.

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 concerns that the advertisement is sexualised and is inappropriate for display in a newspaper that children may view.

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

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 underpants 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 noted that the product being promoted was a brothel and escort agency. The Panel considered that the pose of the woman laying down with her hips lifted was a sexualised pose. 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 noted that the woman depicted is wearing only black underpants and is otherwise naked except for black stars covering her nipples and genitals. The Panel determined that the advertisement did contain nudity.

The Panel then considered whether the issues of sexuality and nudity were 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 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).

The Panel noted the placement of the advertisement in the classified section of the Tweed Valley Weekly and considered that while some children may look through a local newspaper, in the Panel's view newspapers are not of themselves generally considered to attract a high child readership or to be directed to children. The Panel noted the complainant's comment that the newspaper often runs a competition where readers are encouraged to search the pages looking for a frog, with the prize being movie tickets. The Panel noted that this style of competition would be broadly appealing to both adults and children, but considered that the majority of the reading audience of the Classified Section of the newspaper would be adult.



The Panel noted that the woman in the advertisement is wearing underpants and considered that her genitals and nipples are covered by black stars and while the pose and overall theme of the advertisement is sexualised the overall impact of the image is relatively mild in the context of the advertised product/service.

Consistent with previous determinations for similar complaints about print advertisements for adult stores/venues, (0244-15, 0577-16, 0017-18), the Panel considered that this advertisement was not strongly sexualised and that it did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience of a local newspaper.

The Panel determined the advertisement 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.