



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0069-21
2. Advertiser :	With Jean
3. Product :	Clothing
4. Type of Advertisement/Media :	Internet
5. Date of Determination	24-Mar-2021
6. DETERMINATION :	Upheld – Not modified or discontinued

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This website advertisement features an image of a woman wearing a white top and patterned pants sitting on the floor. Behind her are black and white images of Pamela Anderson topless.

THE COMPLAINT

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

My complaint relates to the background montage of images that I consider to be overtly sexual, given the extent of nudity, provocative sexualised posing, spreading of legs and the display of full genitalia of a woman (understood to be dated images of Pamela Anderson). Further, the background montage of images has no relevance to the product or service being advertised, namely a woman's corset. The advertisement is, in my view, gratuitous. I note that the advertiser's target audience is overwhelmingly young women. Many young women today are dealing with the harms and impact of an increasingly sexualised and pornographic society and the toxic messages it sends young women, and men, including around body image. I consider that the background in this advertisement reflects an absence of 'understanding and awareness to the needs and emotions of others', as required in the AANA Code.

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 overtly sexual and not relevant to the product or service being advertised.

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

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

The Panel noted the Practice Note for the Code states:

"Overtly sexual depictions where the depiction is not relevant to the product or service being advertised are likely to offend Prevailing Community Standards and be unacceptable.

"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."*

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 woman in the image was posed modelling an item of clothing, and is not engaging in sexual activity. The Panel noted that although the content of the posters behind the model were sexualised, they also 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 images behind the woman are of a highly sexualised nature similar to those found in pornography and that this 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 model was modelling the product and was not naked. The Panel noted that the poster images in the background featured five images of a topless woman. The Panel noted that in two of the images the woman appears to be naked, except for a set of heels, however her position meant that her genitals could not be seen. The Panel noted that in the other three images the woman was angled towards the camera and was wearing g-string.

The Panel considered that images of a woman with her breasts fully exposed did constitute nudity.

Is the issues of 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 the advertiser’s website as a product listing and as such the relevant audience would be limited to those shopping on the website who would likely be adults.

The Panel considered that many adults would not expect to see images such as these when shopping for clothing online, and would find these images confronting and not relevant to the product.

The Panel considered that the nudity and sexualised poses in the background image were overtly sexual and not relevant to the promotion of the product.



The Panel considered that, in accordance with the Practice Note, this overtly sexual image is not relevant to advertising a woman's corset top and does offend Prevailing Community Standards.

Section 2.4 Conclusion

The Panel determined that the advertisement did not treat sex, sexuality and nudity with sensitivity to the relevant online audience and 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 DETERMINATION

The advertiser has not provided a response to the Panel's determination. Ad Standards will continue to work with the advertiser and other industry bodies regarding this issue of non-compliance.