



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0077/17</b>
<b>2</b>	<b>Advertiser</b>	<b>indah.com.au</b>
<b>3</b>	<b>Product</b>	<b>Toiletries</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Internet</b>
<b>5</b>	<b>Date of Determination</b>	<b>22/02/2017</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

## DESCRIPTION OF THE ADVERTISEMENT

The six main images displayed on the homepage of the website indah.com.au are of Teisha Lowry a reputable model, actor, environmental and animal activist and the founder of INDAH, a highly respected Australian natural beauty brand which has been producing all natural and organic products for the last nine years. The images are the work of a world-renowned portrait and fashion photographer, who has won multiple awards and captures campaigns for clients internationally. Like many of the photographer's peers, the photographer has taken the images in a tasteful black and white contrast to give them a sophisticated fine art like appearance that encapsulates Teisha Lowry's natural beauty, complimented by the rawness of the Australian landscape and coastline, a reflection of INDAH's dedication to using natural Australian ingredients wherever possible. The brand is called INDAH, which means "beautiful" in many Asian languages and the campaign speaks to the brand's values of championing real, natural beauty. Furthermore all of the campaign images have been of similar taste over the last decade showing that Teisha Lowry lives and breaths INDAH, the customer is not only buying natural body products, but buying into the feeling of being invigorated and happy "in your own skin".

## THE COMPLAINT

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

*As soon as you enter the site and scroll down, you see multiple photos of the founder in the nude, this is not a sex site or pornography so this company should be reported and fined immediately!*

*It is very offensive. Company should be notified to remove it, it is disgusting and inappropriate!*

*See above, me and my family were shocked!*

*100% nudity for a skincare company is outrageous.*

## **THE ADVERTISER'S RESPONSE**

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

*We have received and acknowledge the following comments from the complainant in relation to the AANA Code of Ethics ("the Code"), specifically the issue raised to date · 2.4 - Sex, sexuality and nudity.*

*In regards to the concerns of the complainant in relation to The Code 2.4 Sex, sexuality and nudity, they are correct in saying that "this is not a sex site or pornography" and it was never the objective of the owner, nor in the mindset of the brand's philosophy to create images reflective of such a business. The images incorporate the owner's body who has been a professional model and actor for the last 20 years in poses deliberately designed to protect her modesty, her private areas are not visible in a single image and her breasts are predominantly covered by the shape of her hunching inwards to only expose the silhouettes and outlines of her physique. Furthermore, none of the images are of her looking into the camera with a seductive "sexualised" look diminishing any reason for people to presume the owner is selling "sex" or "pornographic" images or services. We respect that the complainant is upset, but is there cause for our small business, not "company" to be "reported and fined immediately!". We are a staff of 1-3 people, the business is not a large corporate beauty brand, which has the marketing budget to be advertised in front of millions of people, therefore the usage of these images is currently limited to the INDAH website and social media. The complainant has called the brand "cheap porn," however the vast majority of our target audience are adult women, and the majority of these women are supportive of the owner's images as previous positive comments on the INDAH social media platforms shows. Not once have the images been seen in men's magazines, pornographic magazines, or marketed in a sexualized nature on any other website or marketing platforms such as billboards. They are beautiful images of a women who is proud of her natural beauty and there is nothing negative about that. Rather we argue that the images endorse confidence and encourage a celebration of natural feminine beauty.*

*In regards to the comment made by the complainant "me and my family were shocked!" We argue that, as previously mentioned, our target audience is not children, which as highlighted in the AANA Code Of Ethics 'Definitions and Interpretation,' is "Children means persons 14 years old or younger and Child means a person 14 years old or younger". Our products are made to appeal to adult women and the images are not being displayed on a billboard next to a school or in*

shopping centres. The campaign is only advertised on the indah.com.au website and social media which most customers are attracted to by word-of-mouth. Furthermore an examination of the INDAH social media platforms and other public forums will demonstrate that no marketing materials produced

by the brand are designed to attract children to the brand, they are targeted at mature women with a passion for natural beauty, health and wellbeing. The brand's public relations strategy also primarily focuses on women's health, fitness and lifestyle magazines, written for mature women.

With regards to the comment written by the complainant "100% nudity for a skincare company is outrageous!!!!!!!!!!" A lot of natural skincare companies use similar tactics in their marketing campaigns such as supermodel "Miranda Kerr" with her organic skincare brand "Kora". A Google search for "Miranda Kerr Kora" will return images including tasteful black and white photographs of Miranda on a beach, in the shower, laying down on a floor naked with her poses covering her genitalia and breasts. This can also be seen with model "Jessica Hart" who has a natural cosmetics brands called "Luma Cosmetics." There are images of her wearing a see-through top on the Luma website. Similar examples of other Australian models with beauty brands are "Lara Worthington (Bingle)" who has recently launched a cosmetic and tanning brand called "The Base" and she also appears topless on her website and in other forms of advertising for her brand. Yet another example is "Jennifer Hawkins" who has appeared many times as herself on behalf of her tanning brand "J Bronze". Images of her nude and in seductive poses have appeared on the brand's website, on posters, magazine covers and in men's magazines. And most recently, Australian model, "Cheyenne Tozzi" was photographed naked in an international campaign for "Jergens" skincare, these images were broadcasted on huge billboards across the country which would have mostly likely been seen by millions of children. However, these are not degrading remarks, these are all beautiful, strong and powerful women who are not only the spokesperson for their own brands, but they are also humanitarians, mothers, entrepreneurs and strong and confident women who have very successful careers, and yet the complainant has chosen Teisha Lowry and indah.com.au to complain about. These images all support the 'trend' of this style of imagery in the beauty industry defying the complainant's comments that it is outrageous usage of nudity. The views of Teisha Lowry and therefore, INDAH are that women should be supporting each other with their vision and their goals rather than complaining and putting other women down with comments such as "disgusting" and "cheap porn." Please see Schedule A, B, C, D and E for your convenient reference of the advertising campaigns mentioned.

In conclusion we do not believe that the INDAH campaign images are in breach of the AANA Code of Ethics ("the Code") section 2.4 - Sex, sexuality and nudity as precautions have been taken through the style of the imagery to ensure modesty and sensitivity and they are not overly sexualised images. Furthermore this campaign nor any other marketing or PR materials used by the brand are directly targeted at children protecting potentially sensitive audiences. Finally, it is not exploitative or degrading of any individual or group and INDAH's competitor's choices to use similar marketing tactics support the relevance of the nudity in the campaign as acceptable industry practice for the beauty industry.

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted the complainant's concerns that the advertisement includes images of a naked woman that are inappropriate and offensive.

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

The Board 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 Board noted this internet advertisement includes six main images displayed in black and white on the homepage of the website indah.com.au. They are Teisha Lowry the founder of INDAH.

The Board noted that the website is promoting a beauty brand including products used for skin care. The Board considered that it is not unreasonable for an advertiser to include images of "skin" or a "body" to emphasise the benefits of the product.

The Board noted it had previously dismissed complaints in case 0336/13 for Ella Bache skin care products.

The Board noted in that case that "...whilst the women are clearly naked they are positioned in a way which ensures their private areas are covered. The Board noted that the advertised product is a skin care lotion and considered that it is reasonable for an advertiser to show skin when advertising such a product providing that the image does not breach the provisions of the Code."

Similar to the case mentioned above, the Board noted that in the context of the skin care product being advertised, the images were treated with sensitivity. The Board noted the inclusion of nudity does not of itself amount to sexualisation. The Board noted that the woman is not posing in a sexual manner and that the overall image is not sexualised.

In the Board's view the overall image is artistic and the level of nudity is not inappropriate for a broad audience which would include children.

The Board considered that the images on the INDAH website were directly relevant to the product being advertised and did treat the issue of sex, sexuality and nudity with sensitivity to the relevant online audience and determined that the advertisement did not breach Section 2.4 of the Code.

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

