



Ad Standards Community Panel  
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Ad Standards Limited  
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## Case Report

1. Case Number :	0079-21
2. Advertiser :	PointsBet Australia Pty Limited
3. Product :	Gambling
4. Type of Advertisement/Media :	Print
5. Date of Determination	28-Apr-2021
6. DETERMINATION :	Dismissed

### ISSUES RAISED

AANA Code of Ethics\2.2 Exploitative or Degrading  
AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This print advertisement features a woman in a red dress holding a gold club and a phone. On the phone screen the brand app can be seen. The advertisement also includes the words, "\$4 profiteer run 1st or 2nd golden slipper". and the Instagram handle of the woman.

### THE COMPLAINT

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

*Between page 1 and page 44 in The Age on Saturday 20th March there were 8 articles/ stories dedicated to the culture of misogyny, abuse, assault, sexism, violence and crimes against women in Australia. On page 45 there was an advert with a highly sexualised image of a woman being used to promote gambling. I am offended by the use of an image of a woman who has few clothes on and clearly her body and face are being used to 'grab' attention. It is degrading and demeaning. This ad is normalising the idea that women's bodies can be used to sell something.*

### THE ADVERTISER'S RESPONSE





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

*The Advertisement features an image of Paige Renee Spiranac who is an American social media personality and retired professional golfer. Paige is also an employee and brand ambassador for PointsBet in Australia and the United States.*

*Paige has built a strong social media following of over 6 million (including 3 million followers on Instagram) and has sought to use this exposure to promote her anti-bullying campaign and continue to fight for a woman's right to feel comfortable in her own skin.*

*The image in the Advertisement is consistent with Paige's brand and image which can be seen in her Instagram account (@\_paige.renee). In fact, this is one of the images approved for use by Paige and her management to ensure consistency of her brand and image.*

*In response to the complaint, we respectfully disagree that the Advertisement depicts an 'exposed chest', nor is the Advertisement a 'highly sexualised image of a woman'. Further, I note the complainant's comments about the editorial content of the newspaper between pages 1 and 44.*

*Firstly, we submit that this is irrelevant when reviewing the Advertisement and secondly, in any event, PointsBet locks in spot media well in advance of any editorial content being prepared (nor do we have visibility or the ability to control such content).*

*Specifically, in relation to the AANA Code of Ethics (the Code):*

*(a) Relevant Audience – the Advertisement appeared in the Age newspaper and therefore the relevant (and intended) audience should be viewed as educated adults and not children or vulnerable group in society.*

*(b) Section 2.1 – the Advertisement does not portray people or depict material in a way which discriminates against or vilifies a person or section of the community. There is nothing in the image which seeks to depict unfair or less favourable treatment of women, nor aims to humiliate, intimidate, incites hatred, contempt or ridicule women.*

*As stated in the Practice Note 'Portraying a person as attractive does not, in and of itself, constitute discrimination or vilification'.*

*(c) Section 2.2 – the Advertisement does not use sexual appeal in a way which is exploitative of or degrading to any individual or group of people. As set out in the Practice Note:*

*- 'Exploitive' requires the taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; and*



- 'Degrading' required the lowering in character or quality a person or group of persons.

*The Advertisement does not breach either test.*

*Further, to focus on some other sections of the Practice Note, Paige is not wearing underwear or lingerie (rather an outfit similar to which she is regularly seen wearing on her social media accounts while playing golf), the Advertisement does not focus on body parts (there are no close-up shots) and does use sexual appeal to suggest that a person (i.e. Paige) is a product.*

*(d) Section 2.4 – the Advertisement does not contain harmful use of sex, sexuality or nudity. Paige is fully clothed in the Advertisement, however we do note that the Practice Note provides that images of models in bikinis or underwear are permitted, however, unacceptable images could include those where a model is in a suggestively sexual pose, where underwear is being pulled up or down, or where there is clear sexual innuendo from the ad. The Advertisement does not include any of this. In conclusion, we submit that the Advertisement does not breach any of the provisions of the AANA Code of Ethics nor cross the line when it comes to community standards.*

*In fact, where there was a criticism of the ad on social media (ABC journalist Francis Leach made a similar comment to that of the Complainant), the social media commentary was overwhelming positive towards the ad and Paige. He has since deleted his tweet.*

## **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 uses a highly sexualised image of a woman being used to promote gambling which normalises the idea that women's bodies can be used to sell something.

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

The Panel noted that the complainant's concern about the placement of the advertisement in relation to news articles in the newspaper is not a consideration when assessing the content of the advertisement within the provisions of the Code.

**Section 2.2: Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people.**

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:



Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised.  
Degrading – lowering in character or quality a person or group of people.

### **Does the advertisement use sexual appeal?**

The Panel noted that this advertisement contains an image of a blonde woman in a red dress. The Panel considered that the woman is attractive and wearing a bright colour and considered that most members of the community would find the image to contain sexual appeal.

### **Does the advertisement use sexual appeal in a manner that is exploitative?**

The Panel noted that the woman in the advertisement is Paige Renee Spiranac, a former professional golfer who is a Pointsbet ambassador.

The Panel noted the complainant's comment that the woman's chest is exposed. The Panel considered that her dress is not low cut and there is not a particular focus on her breasts.

The Panel considered that the depiction of a brand ambassador in an advertisement is not exploitative of the woman in the advertisement or women in general.

The Panel considered that the advertisement does not focus on the woman's body parts but rather on the phone she is holding and the large text above her head.

The Panel considered that the advertisement did not employ sexual appeal in a manner which is exploitative of the women.

### **Does the advertisement use sexual appeal in a manner that is degrading?**

The Panel noted that the depiction of the woman was relevant as she is a brand ambassador for the advertiser and considered that her appearing in the advertisement did not lower her, or women in general, in character or quality.

### **Section 2.2 conclusion**

Finding that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of an individual or group of people, the Panel determined that the advertisement did not breach Section 2.2 of the Code.

### **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 images are not appropriate in outdoor advertising or shop front windows.*

*“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.*

*“Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisements for toiletries and underwear) is generally permitted but note the application of the relevant audience. More care should be taken in outdoor media than magazines, for example.*

*“Images of models in bikinis or underwear are permitted, however, unacceptable images could include those where a model is in a suggestively sexual pose, where underwear is being pulled up or down (by the model or another person), or where there is clear sexual innuendo from the ad (e.g. depicting women as sexual objects).”*

#### **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 is not engaging in sexual intercourse in the image. The Panel considered that the advertisement 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 considered that the woman is fully clothed and her pose is not sexualised. The Panel considered that all images in 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 considered that the woman in the advertisement is fully clothed and considered that the advertisement did not contain nudity.

#### **Section 2.4 Conclusion**

The Panel determined that 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.

#### **Conclusion**

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