



Case Report

1	Case Number	0086/15
2	Advertiser	American Apparel Inc
3	Product	Clothing
4	Type of Advertisement / media	Internet
5	Date of Determination	25/03/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

Young women in lingerie in various positions both standing and reclined. Many of the lingerie styles are transparent and the girls nipples and pubic hair are visible.

THE COMPLAINT

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

You can see the young girls' nipples and pubic hair and the photos seem very pornographic.

THE ADVERTISER'S RESPONSE

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

In respect of the photographs that are the subject of the complaint you received, the models in the images do not, and are not intended to, represent an underage models. Further, American Apparel does not feature images that are exploitative, degrading or violent. All of that said, we are currently undertaking a change to this and other sections of the e-commerce

web site, so that many of the photographs that are the subject of the complaint will shortly no longer be present on the web site.

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 concern that the advertisement depicts models who appear very young dressed in lingerie that is transparent and the images are inappropriate.

The Board viewed the advertisement and noted the advertiser’s response. The Board also noted that the images have since been modified and the previously visible nipples and pubic hair have been photo-shopped out of the images.

The Board considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: “Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.”

The Board noted that in order to be in breach of this section of the Code the image would need to use sexual appeal in a manner that is both exploitative and degrading.

The Board noted that this advertisement features several different models in various lingerie and clothing attire. The Board noted that the complainant did not refer to a specific image and that in this instance a collection of images are being considered and that the images under consideration do include lingerie that is transparent and the models nipples and pubic hair are clearly visible.

The Board considered images that show lingerie labelled as Geo lace bralet, abstract lace demi bra, abstract lace full coverage bra, nylon spandex mesh triangle cross, mesh crop, Le grind glissnet bodysuit, sleeveless crop and bra and panty and the Le grind glissnet babydoll.

The Board noted the practice note for Section 2.2 which reads: “In advertisements where images of children are used, sexual appeal is not acceptable and will always be regarded as exploitative and degrading. . . . Children must not be portrayed in a manner which treats them as objects of sexual appeal”.

The Board noted that the advertiser advised that the models in the images do not, and are not intended to represent underage models.

The Board agreed that the models are young women but was not able to say that they are children.

The Board therefore considered whether the images are of themselves using sexual appeal in a manner which is exploitative and degrading.

The Board noted the practice not for Section 2.2 which describes exploitative and degrading as follows: Exploitative means clearly appearing to purposefully debase or abuse a person, or group of person, for the enjoyment of others, and lacking moral, artistic or other values. Degrading means lowering in character or quality a person or group of persons.

The Board considered that transparent nature of the lingerie and the poses of the models with their arms raised above their heads increased the level of sexual appeal of the images, however, the Board noted that as lingerie models, the women were not presented in a manner that purposefully debased the women or lowered the character or quality of the women.

The Board noted that some members of the community would consider it to be exploitative to use attractive women in lingerie to sell a lingerie product but considered in this instance that advertised product was transparent lingerie and that the use of women wearing the lingerie did not amount to a depiction images that used sexual appeal in a manner which is exploitative and degrading and did not breach Section 2.2 of the Code.

The Board determined that the advertisement did not breach Section 2.2 of the Code.

The Board then 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 that the relevant audience for this material are people who are familiar with the brand and the types of clothing products available. The Board considered that the target audience is likely to be young adult men and women. The Board noted that it had previously upheld images on the advertiser's website (case reference 0435/12) where images of women lying on beds and other sexualised positions were used and considered that in the current matter the images used by the advertiser to promote their products were of a slightly different nature as they were not posed lying down or in bedrooms and overall did not seem overly sexualised.

The Board noted the AANA Practice Note which provides that "advertisements with appeal to younger people which contain sexualised images or poses are to be used with caution. Models which appear to be young should not be used in sexualised poses". The Board considered the models had a youthful appearance and that some consumers were likely to regard them as being underage however the Board considered that the model's expressions

and poses were not sexual in nature and though they are young they did not appear to be under the age of 18.

The Board also noted the AANA Practice Note that “Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisement s for toiletries and fashion) is generally permitted but note the applications of the intended or likely audience”. While a minority of the Board thought the full frontal nudity in the images was not sufficiently discreet, the majority of the Board noted that in the images the womens’ nipples and public hair were visible only through transparent clothing. The Board noted that it has upheld complaints about advertisements where a woman’s nipples are visible. However in this advertisement the Board noted that the model is wearing the advertised product (which happens to be see through) and that in these images the model is not posed in a sexualised position. The Board considered that the advertising of the bras which showed the model’s nipples were, in the particular images, a depiction of nudity that was sensitive to the relevant audience ie: women looking to purchase a bra. The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

In the decision in case 0435/12, the Board noted there was a cumulative effect of sexualised images of young women that provides a high impact for the audience and that the images in that case were excessively sexualised.

The Board recognised that the advertiser can take a risqué approach towards advertising provided that the advertising is within the bounds of the Code of Ethics. In the Board’s view, the product is transparent lingerie and, while use of mannequins rather than real people might have been preferable, the depiction of the models wearing the product that is available for purchase is a sufficiently discreet portrayal of nudity and did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.

The Board considered that the images did not breach section 2.4 of the Code.

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