



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0091-20
2. Advertiser :	Honey Birdette
3. Product :	Lingerie
4. Type of Advertisement/Media :	TV - Out of Home
5. Date of Determination	11-Mar-2020
6. DETERMINATION :	Upheld - Not Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This TV OOH image features a series of images of naked couples embracing, with coloured filters, played in quick succession.

A blurred image with a rainbow filter is then shown with the text, "We can show you this image in our London stores. We can show you this image in New York. We are censored from showing you this image in Australia. It's 2020...and time for equality."

The text then changes to say, "What is the difference between a male & a female nipple? What is the difference between a heterosexual couple & a gay couple embracing".

The text is then replaced with the words, "#FLUID Stripped down and stripped back to celebrate the power of the LGBTQIA+ community".

At the bottom of the screen the words, "To celebrate equality, Honey Birdette will be donation \$10000 to queerscreen."

An image of rainbow cuffs and collar, as well as a chain then appears with the words, "Stand out. Celebrating the 42nd year of Mardi Gras" superimposed over the image.

THE COMPLAINT



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

It is on display outside their stores in shopping centres. This is a place that is supposed to be family friendly and has many visitors under adult age. It is offensive to adults also. It should not be in our face but behind the stores closed door, like adult shops do. My values and my children's innocence and understanding should not be insulted like that. It is our choice to look at sexualised bodies, devaluing the female body and devaluing the meaning of sex. It is like pornography, and that is just the pictures. The message of men's and women's nipples is not appropriate for family environments!!

The images and content of this campaign are not appropriate for the general public, especially children, who frequent this shopping centre.

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

My husband and I would like to complain about the lingerie shop on floor one of Grand Central shopping centre 'HoneyBirdette', that repeatedly has advertising that is not suitable for children or teens walking past. We are appalled at their advertising about the only difference between heterosexual and gay sex is the fluid! This is absolutely disgusting to have plastered in front of our eyes, along with the images they constantly show. We are ashamed of Grand Central for allowing that. If people want to go look for those types of shops, that's their business, but it's sickening to have to walk past and to know that children and young teens are having that shoved in front of their faces unavoidably! Movie ratings should be applied in shopping centres so that our children, and ourselves, are protected from what we don't want to see! Grand Central have advised us to contact the adstandards board and also have submitted our complaint to their Honey Birdette store.

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 complainants' concerns that the advertisement is highly sexualised and unsuitable for display in a public place.

The Panel viewed the advertisement and noted 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 advertisement features a series of images of naked couples embracing, with coloured filters, played in quick succession. The Panel considered that whilst there is no details able to be seen because of the quick rotation of the images, there is a strong impression of a lot of skin, multiple bodies and people kissing/embracing. The Panel considered that this is a depiction of sexually stimulating or suggestive behaviour and that this image did contain sex.

The Panel considered whether the advertisement featured 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 considered that the fleeting images at the start of the advertisement created a strong impression of sexual activity and that this is a recognition or emphasis of sexual matters. The Panel considered that the image towards the end of the advertisement showed rainbow cuffs and collar which is a sexualised product. The Panel considered that this image 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 considered that the Code is intended for the Panel to consider



the concept of nudity, and that partial nudity is factor when considering whether an advertisement contains nudity.

The Panel considered that while the images are fleeting and there is no clear focus on any particular body or body parts, it is still clear that the people depicted in the images at the start of the advertisement are not wearing clothes. The Panel considered that the advertisement contained nudity.

The Panel then considered whether the advertisement treated the issue of sexuality and nudity 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 this video appears in store windows and considered that the relevant audience includes retail and service workers, people shopping in the Honey Birdette store and people who are not shopping at Honey Birdette but who are walking past the store, and that this last group would be broad and would include children.

The Panel considered the Practice Note for the Code which provides:

"Full frontal nudity and explicit pornographic language is not permitted. Images of genitalia are not acceptable. Images of nipples may be acceptable in advertisements for plastic surgery or art exhibits for example."

The Panel noted the complainants' concern that the advertisement stated that "the only difference between heterosexual and gay sex is the fluid".

The Panel noted that the text in the advertisement actually states, "What is the difference between a male & a female nipple? What is the difference between a heterosexual couple & a gay couple embracing". The campaign hashtag, "#fluid" then appears. The Panel considered that the advertisement text is not referencing sex, rather it is making a reference to gender fluidity. The Panel considered that the text in the advertisement was not highly sexualised or inappropriate for a broad audience.



The Panel noted the complainants' concerns that the advertisement is highly sexualised and unsuitable for display in a public place.

A minority of the Panel considered that the images at the start of the video were artistic and political, and that the focus was not on sex or nudity.

The minority of the Panel considered that the images only appeared for the first five seconds of the advertisement and that the following 30 seconds were taken up with text over an extremely blurred version of the image in its entirety, and that the overall impression of the advertisement was the message about gender fluidity and acceptance that the advertiser was attempting to convey.

The minority of the Panel considered that the images at the start of the advertisement were artistic, rather than overly sexualised, and that their fleeting nature meant that the video itself was not inappropriate for viewing by a broad audience.

The majority of the Panel considered that although the images at the start were fleeting, people walking past the store would clearly be able to see that they were images of naked people embracing, and that each image contained more than two people. The majority of the Panel considered that the overall impression of the images, particularly the images of multiple limbs intertwined, was a depiction which was highly suggestive of group sex.

The majority of the Panel considered that most members of the community would find depictions of group sex in a public place to be inappropriate and confronting.

The majority of the Panel considered that the first five seconds of the advertisement, featuring the images of naked, painted people, did not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience.

Finding that the advertisement did not treat sex, sexuality and nudity with sensitivity to the relevant audience, the Panel determined that the advertisement did breach Section 2.4 of the Code.

Finding that the advertisement breached Section 2.4 of the Code, the Panel upheld the complaints.

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.