



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0093-22
2. Advertiser :	Woolworths Group Limited trading as BIG W
3. Product :	Lingerie
4. Type of Advertisement/Media :	Internet - Social - Facebook
5. Date of Determination	11-May-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This sponsored advertisement on Facebook depicts a woman wearing a sheer navy chemise.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*I feel that this borders on soft porn as Big W isn't an adult venue so should be providing family friendly modelling
As a female I find it offensive that they are deliberately using nudity to sell a product*

THE ADVERTISER'S RESPONSE

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



Thank you for your letter dated 02 May 2022 in relation to a complaint received by Ad Standards (“the Complaint”) regarding an advertisement for lingerie promoted on Facebook (“the Advertisement”).

Woolworths Group Limited trading as BIG W (“BIG W”) takes its advertising obligations very seriously and thanks Ad Standards for the opportunity to respond to the Complaint. We would like to particularly thank the Case Managers for allowing an extension on a response until midday 11 May 2022 and for considering the request within this letter specifically.

The Advertisement

As requested, please see below a summary of the Advertisement that is the subject of the Complaint:

The Advertisement (attached at Annex 1) contains a model wearing the Kayser Women’s Bombshell Chemise that BIG W ranged both in-store and online. There are two types of sponsored advertisements that BIG W runs on Facebook. The sponsored advertisement that the complainant received on 15 April 2022 for the Kayser Women’s Bombshell Chemise in this instance was informed by keywords or terms previously searched on the device which the user was using, or the website content that the user has viewed, which includes specific products and related products. The image used in the Advertisement was pulled directly from this product’s page on BIG W’s website.

Other forms of sponsored advertisements BIG W run include formats that are not targeted based on a user’s device keyword or term search history (“Un-sponsored Advertising”).

Issues raised in the Complaint

The complainant has raised that she received an advertisement for the Kayser Women’s Bombshell Chemise (“Product”) via Facebook on 15 April 2022. The complainant alleges that the Advertisement did not treat sex, sexuality or nudity with sensitivity to the relevant audience thereby alleging that the Advertisement is a breach of Section 2.4 of the AANA Code of Ethics (“Code”).

BIG W’s’ response

BIG W respectfully denies the allegations and submits that the Advertisement does treat sex, sexuality and nudity with sensitivity to the relevant audience and therefore BIG W is not in breach of Section 2.4 of the Code.

BIG W sells a wide variety of general merchandise products, including but not limited to underwear and lingerie items. BIG W takes steps to ensure that all advertising, including for underwear and lingerie items, is consistent with our values and shows



our products in a way that is consistent with the Code and other related standards and guidance. BIG W maintains that this Advertisement is no exception.

Noting the AANA Code of Ethics Practice Note, discreet portrayals of nudity are permitted in the context of advertising underwear so long as such advertisements do not show models displaying a suggestive sexual pose, provided underwear is not being pulled down and provided there is no sexual innuendo to be deducted from the ad. BIG W maintains that the Advertisement was consistent with that guidance.

The Advertisement does not contain poses that are suggestive of a sexual position or show the model in a manner that shows a large amount of breasts or buttocks. Further to that, the image does not contain suggestive undressing or interaction with any other individual that would potentially be suggestive of sexualised activity. Rather, the Advertisement depicts the model wearing the Product in a manner that is tasteful, sensitive and consistent with its use. The frame of the Advertisement is intended to put the viewer's focus on the lingerie itself.

As mentioned above, the complainant has received this Advertisement as a sponsored advertisement based on keywords or terms previously searched on the device in which the user was using, or the website content that the user has viewed. Therefore the relevant audience for the Advertisement would be predominantly adults who have exercised the choice to search keywords or terms related to this Product. While BIG W maintains that the Advertisement was not in breach of Section 2.4 of the Code, we note that BIG W does not run any targeted advertising to those under the age of 18, and separately as a precaution, BIG W does not advertise lingerie as part of its regular Unsponsored Advertising on Facebook (or other social media channels).

BIG W maintain that the Advertisement is also not in breach of any other section of the Code as it does not discriminate or vilify a person or section of the community (Section 2.1 of the Code), and does not depict images of minors (Section 2.2(a) of the Code), does not employ sexual appeal in a manner that is exploitative or degrading (Section 2.2(b) of the Code), does not portray violence (Section 2.3 of the Code), does not use inappropriate language (Section 2.5 of the Code), does not depict material contrary to what BIG W would believe are the Prevailing Community Standards (Section 2.6 of the Code), and finally because the Advertisement is clearly distinguishable as such (Section 2.7 of the Code).

BIG W's request

For all of the reasons set out above, we kindly ask that the matter be dismissed by the Community Panel.

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' concern that the advertisement featured nudity that was inappropriate given the brand.

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

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

The Panel noted the Practice Note for the Code includes:

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

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).

Images of naked people when viewed in a public space, where the nudity is evident and the focus of the advertisement, have been found not to treat the issue of nudity with sensitivity to the relevant audience, even when the image is not sexual in nature."

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 noted that the woman is not engaging in sexual intercourse and 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 wearing lingerie and considered that there was a sexual element to the advertisement.



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 woman in the advertisement is wearing a lace and mesh chemise and that her breasts and nipples are visible. The Panel considered that this is a depiction of partial nudity.

Are 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.

In assessing the relevant audience, the Panel considered the placement of the advertisement. The Panel noted that this advertisement was a sponsored advertisement on Facebook and noted the advertiser’s response that it was targeted to people who had previously searched similar products or terms.

The Panel noted that although Facebook requires users to be over 13 and there is a chance that some viewers of this advertisement may be under 18, the relevant audience for this advertisement would be predominately adults who have shown interest in lingerie.

The Panel considered that while the advertisement did depict partial nudity, the woman was not posed in a sexualised manner and the product was depicted in a factual manner without sensationalising or focussing on the nudity.

The Panel considered that while it may make some viewers uncomfortable, the advertisement did not contain highly sexualised imagery and was not inappropriate for a broad, predominately adult audience.

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.