



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0097-20</b>
<b>2. Advertiser :</b>	<b>The Firm Gentlemens Club</b>
<b>3. Product :</b>	<b>Sex Industry</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Out of Home</b>
<b>5. Date of Determination</b>	<b>25-Mar-2020</b>
<b>6. DETERMINATION :</b>	<b>Upheld – Modified or Discontinued</b>

### ISSUES RAISED

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

### DESCRIPTION OF ADVERTISEMENT

This advertisement depicts a woman that appears to be naked kneeling and holding a wet sponge above her head. The woman appears to be wet. There is a bright light over her breasts. Text states "Miss Firm Australia".

### THE COMPLAINT

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

*I believe both of the advertisements contravene Section 2.2 of the AANA Code of Ethics.*

*The still image is exploitative and fantasizes the situation of a woman bathing. Think how that sits in the context of spy cams placed in women's spaces such as changerooms. This is a crime, yet this business sexualises and fantasizes the scenario in it's advertising. It is exploitative to view a women against her knowledge or consent. Of course the individual model in this picture gave her consent, but in the broader context this image promotes the exploitation of women more generally.*

*Let me be clear that this is NOT a nightlife zone. It is opposite the only train station in the city and diagonally across from the State Parliament House. Service SA is located further down the street. Please consider the actual audience, not just the one the*



*business intends this for. The actual audience is commuters, both workers, students and children.*

*Speaking of children, your panel previously advised that images of this nature " would not attract the attention of young children, and that young children who viewed the advertisement would see a woman in her underwear and would not understand the sexual nature of the business." I utterly fail to see how you came to that conclusion. Firstly, children are very observant, often much more than their adults. Any screen, any light, anything colourful will attract attention. whilst not fully understanding the sexual context, children most certainly are absorbing the images and internalizing their messages. Please consider the following report:*

*[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/175418/Bailey\\_Review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/175418/Bailey_Review.pdf) and also the following fact sheet around children's access to pornography: [https://www.echildhood.org/the\\_facts](https://www.echildhood.org/the_facts)*

*I disagree that even an image "a women in underwear" is of no negative consequence to children, or to broader society. And in this case, you can forget about the underwear as in the billboard there are none.*

*The advertisement has also breached Section 2.4 of the AANA Code of Ethics. Clearly there is absolutely no sensitivity but only the intention to entice and stimulate - for commercial gain. The result is a hostile environment surrounding this venue - for women and for men.*

## **THE ADVERTISER'S RESPONSE**

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

*The poster was created to suit the nature of our business, it was never made to insult, exploit or to discriminate against any member of the public.*

*The poster shows a lady performing in a competition called Miss Firm Australia, we have censored any nudity to ensure the public are not offended.*

*The image was photographed by a "professional photographer" who has been doing this work for some time.*

*The image was never designed to concentrate on any particular part of the body, it is up to individuals whether he/she wishes to concentrate only on a particular part of the model's image.*

*We believe it is not an objectification to anybody if the person chooses to be photographed erotically, as you can see on the image there are no suggestions of discrimination, harassment or violence against anyone.*



*The Firm Gentleman's Club is located on 142 North Terrace, Adelaide. There are no schools or day cares nearby, even though we always make sure our advertising materials is very carefully and professionally designed and distributed, e.g. There are no flashing lights at the front of the club during business hours, none of our bright colours to attract attention of children or minors, none of our advertising materials are designed or aimed to attract children or minor's attention.*

*Please note that it is not and has never been in our interest to attract children or any person under the age of 18 into our club as we are a fully licensed adult entertainment club.*

*We appreciate your efforts in resolving this complaint.*

## **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 concern that the advertisement:

- Promotes the exploitation of women by fantasising the situation of a woman bathing
- Features nudity and is not suitable for a public space

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

The Panel 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 or degrading of any individual or group of people."

The Panel noted the complainant's concern that the advertisement promotes the exploitation of women.

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.

The Panel first considered whether the advertisement used sexual appeal.

The Panel considered that the depiction of a naked woman squeezing water over herself in connection to a pageant competition in a gentleman's club is one which most people would consider to contain sexual appeal.



The Panel then considered whether the advertisement used sexual appeal in a manner that was exploitative of an individual or group of people.

The Panel noted that this is a legal business and although people may dislike the fact that women in the business are paid for adult entertainment services, this does not mean that the advertisement is of itself exploitative.

The Panel considered that there was a focus on the woman's body in the advertisement, however noted that the advertised product is an adult industry pageant which features naked women. The Panel considered that the images used in the advertisement are clearly related to the product being advertised.

The Panel considered that the advertisement depicted the woman as performing in the course of competing in the pageant and did not otherwise suggest the woman was an object or commodity.

The Panel considered that the advertisement did not use sexual appeal in a manner that was exploitative of an individual or group of people. The Panel also considered that the image was not promoting the exploitation of women generally as this was an advertisement for a promotion in a specific venue and depicted a woman in the context of the promotion. The Panel considered that the advertisement content was not promoting exploitation of women.

The Panel then considered whether the advertisement used sexual appeal in a degrading manner.

The Panel considered that the depiction of the woman wetting herself with a sponge in the context of her performance. The Panel considered that the advertisement depicted the woman as a participant in a competition and did not depict the woman, or women in general, in a way which lowered women in character or quality.

The Panel considered that the advertisement did not use sexual appeal in a degrading manner.

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

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 noted the complainant's concern that the advertisement was inappropriate for a public audience which includes children.

The Panel considered whether the advertisement contained sex, sexuality or nudity.



The Panel considered whether the image 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 depiction a naked woman performing is sexually suggestive behaviour and that the advertisement allude to 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 an image of a naked woman performing as part of an adult industry pageant is a depiction which is an emphasis of sexual matters and considered that the advertisement does feature sexuality.

The Panel considered whether the advertisement featured nudity.

The Panel 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 treats nudity with sensitivity to the relevant audience.

The Panel considered that the woman's nipples were hidden by lighting and her pose meant that her genitals were hidden, however the Panel considered that the woman in the advertisement was clearly naked.

The Panel then considered whether the advertisement treated the issues of sex, 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 suggestions is or might be is relevant to the Panel considering how children, and other sections of the community, might consider the advertisement.

The Panel considered that the depiction of the women was relevant to the business being promoted. The Panel considered that although it is reasonable for an advertiser to depict the services being promoted, the depiction should be treated with sensitivity to the relevant audience.

The Panel noted that this image appears on an electronic sign on the street. The Panel noted the advertiser's response that there are no schools or daycares nearby and the advertisements are not designed to attract the attention of children. The Panel noted that the venue is situated opposite a train station. The Panel considered that the relevant audience includes workers, people walking to the businesses and people who are not going to the business but who are walking past, and that this last group would include children.

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 that the image of the woman is highly sexually suggestive, and that many members of the community, including those who would view this advertisement, would find it confronting for an advertisement to feature imagery with such a high level of sexuality and nudity. The Panel considered that the advertisement did not treat the issue of sexuality and nudity with sensitivity to the relevant audience.

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

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

#### **THE ADVERTISER'S RESPONSE TO DETERMINATION**

All content has now been removed from the display. The business is no longer trading and the screens have been switched to a CLOSED sign.