



**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>0101-21</b>
<b>2. Advertiser :</b>	<b>Honey Birdette</b>
<b>3. Product :</b>	<b>Sex Industry</b>
<b>4. Type of Advertisement/Media :</b>	<b>Internet - Social - Instagram</b>
<b>5. Date of Determination</b>	<b>28-Apr-2021</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</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 Instagram advertisement features an image of a woman's buttocks, wearing yellow strappy underpants and a white skirt that is lifted to waist height.

### THE COMPLAINT

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

*This ad sexualises and objectifies women by focusing on a single sexualised body part, the woman's semi-naked backside. The image depicts up skirting, painting it as sexy or suggestive rather than the crime of sexual violence against women that it is. The ad also sexualises and demeans female athletes, reducing them to a male sexual fantasy. The "sexploitation" of women in sport is a well-documented phenomenon, one that has been found to negatively impact women's sports in a range of ways. It determines the value of female athletes primarily in terms of their body type and attractiveness, and detracts from their sporting abilities. Intentionally sexualising female athletes harms their credibility, reinforces gender stereotyping, excludes women who do not fit the 'appropriate' body type, and undermines the credibility of female athletes and women's sport as a whole. This same sexist and sexualising treatment is not typically extended to male athletes.*



*Essentially, sexist and misogynistic Honey Birdette portrayals of female athletes as existing for men's sexual entertainment and use does significant harm to the status of female athletes, as well as women more generally.*

## **THE ADVERTISER'S RESPONSE**

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

*Our ads promote empowerment and we find it sad that a minority group would try to turn a powerful campaign such as this into something 'degrading' to further their own cause.*

*The definition of upskirting is; taking a sexually intrusive photograph up someone's skirt without their knowledge or consent.*

*In no way is this how the picture has been taken, and it goes without saying that the professional, fashion model, gave permission for these shots which show off the lingerie and nothing more. They have not been taken up her skirt and we are very offended by the false allegation.*

*This is designed to be a fun and uplifting, flirty campaign. There is no nudity and absolutely no objectification of women. As with all our ads the women take a dominant, empowered role.*

## **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 is overly sexualised and objectifying of women.

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

**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 woman's buttocks in yellow lingerie and a white skirt. The Panel considered that this advertisement did contain sexual appeal.

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

The Panel noted that the advertisement was for a lingerie product, and it was reasonable for the woman to be depicted wearing that product in the advertisement. The Panel considered that while the woman is wearing lingerie the focus of the advertisement is not irrelevantly on her body or body parts but rather on the details of the lingerie.

The Panel noted complainant's concerns that the advertisement depicts/promotes 'upskirting'. The Panel noted that 'upskirting' is a term used to describe the act of taking a sexually intrusive photograph up someone's skirt without their permission and noted that it is usually performed in a public place, such as on public transport or in a nightclub, among crowds of people, making it harder to spot people taking the photos.

The Panel acknowledged that such an act is inappropriate however considered that the image in the advertisement was not the same as upskirting as the woman in the advertisement is a paid model and is very aware of the photography occurring.

The Panel considered that the advertisement does not promote the taking of inappropriate images of women nor does it present the woman as an object or commodity.

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 considered that the depiction of the woman was relevant to the promotion of lingerie and this did not lower the women in character or quality.

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

The Panel noted the advertiser's concern that the advertisement sexualises and demeans female athletes by reducing them to a male sexual fantasy.

The Panel noted that advertiser's are able to use creative license to build campaigns around certain themes, and using the theme of athletics in an advertisement is not demeaning to people who are employed in that profession.



## **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 noted that the woman is not engaging in sexual intercourse and considered that all images in 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 strappy 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 strappy lingerie which shows a large portion of her buttocks. 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 that the placement of the advertisement limited its reach. The Panel considered that the placement of the advertisement on the Honey Birdette Instagram page meant that it was a message by invitation rather than intrusion, as it is only visible to people who visit the Honey Birdette Instagram page or who follow the page. The Panel noted that the fact the Advertiser appeared not to have boosted the advertisement was an important consideration as this meant that the advertisement was not pushed beyond the Instagram page of the advertiser and onto a broader Instagram audience.

The Panel noted that although Instagram requires users to be over 13 and there is a chance that some followers of the Honey Birdette Instagram page may be under 18, the relevant audience for this advertisement would be predominately adults who have exercised the choice to follow the advertiser via its online presence, or visit their page and who are familiar with the advertiser’s posts.

The Panel considered that the audience for this advertisement would be predominately adult and would be people familiar with the products available at Honey Birdette and their style of advertising on social media. The Panel considered that while the image may be inappropriate for display in a public arena such as a storefront, it was not inappropriate when displayed on the advertiser’s own social media channel which has a targeted adult audience of followers.



### **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.