



Case Report

1	Case Number	0104/16
2	Advertiser	Ella Bache
3	Product	Toiletries
4	Type of Advertisement / media	Poster
5	Date of Determination	23/03/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

This complaint is in reference to our Ella Bache billboard in Wagga Wagga. The image in the advertisement is of two naked woman with their arms covering their breasts and the words, "Ella Bache" are written across the bottom of the image.

THE COMPLAINT

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

The black & white image advertisement displayed towards the outside of the building is offensive.

THE ADVERTISER'S RESPONSE

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

Please refer to case report 0336-13. We would like to reinforce our brand advertising objectives that was responded to in 2013:

Background: Ella Baché is a skincare brand that centres on providing skincare solutions to women primary aged 25 years or older. For the last 20 years, Ella Baché has produced

advertising campaigns showcasing the women in their natural and healthy skin.

The advertisement brings to life Ella Baché's new marketing message: Skin Solutions As Individual As You Are. It seeks to reposition Ella Baché to be aspirational to a younger audience by increasing the appeal of Ella Baché as a contemporary and relevant brand to women aged between 25 and 35 years who lead an active lifestyle and have a tendency to follow a premium skincare routine.

The advertisement has three core creative objectives:

- 1. To demonstrate Ella Baché's ownership in skin expertise;*
- 2. To communicate Ella Baché's philosophy that „no two skins are alike?; and*
- 3. To educate consumers that Ella Baché provides skincare solutions rather than product-based solutions.*

The advertisement features two executions featuring either three models or five female models. In order to achieve the above three objectives, the photography for the advertisement sought to capture the individuality of women's skin in a natural and healthy way that is relevant to Ella Baché's brand, products and the category of skincare generally. The models were selected for their natural and healthy appearance and were photographed to appear comfortable and confident in showcasing their skin and individuality in an appealing way that is classic but contemporary. Although the models are unclothed, the positioning of the models and the composition of the advertisement generally conceals any underlying nudity. All areas of the models' bodies that may be sensitive to the audience were covered.

Complaint: The complainants allege that the prominent display of female nudity in the advertisement raises an issue under section 2.4 of the AANA Code of Ethics as it relates to nudity.

Response: We do not consider that the advertisement is in breach of the AANA Code of Ethics. We note that the only issue that the complainants have raised is in respect of nudity and as a result, we have limited our response directly to this issue.

We take guidance from the AANA Code of Ethics Practice Notice and point out that there is no full frontal nudity or images of genitalia depicted in the advertisement. The nudity is otherwise discreet and appropriate in the context of the key message of the advertisement, being "Skin Solutions As Individual As You Are?", and relevant to the brand and skincare products of Ella Baché. We also note that in no way does the advertisement sexualise or objectify women; to the contrary it is the intention and result of the advertisement to depict happy and healthy women who are confident in the skin they are in.

The Practice Note states that the Board has previously found an image of a woman's torso in a non-sexualised pose to promote a relevant healthy product to be acceptable. We refer to Case Report Number 0155/13, in which the Board found that although advertisements featuring a man and a woman in an intimate pose while not wearing any clothing on the top part of their bodies created a sexualised image, "there is no inappropriate nudity and the woman's breasts are not exposed". We also refer to Case Report Number 0045/13, in which the Board held that "whilst the model in this instance is lifting up the bottom of the shorts she

is wearing the overall image is not sexually explicit or suggestive and the level of nudity is minimal and not inappropriate” and accordingly found that the advertisement did not breach section 2.4 of the Code.

We consider that sufficient care and sensitivity to the audience has been taken given the placement of the advertisement in outdoor media, which allows broader exposure to persons outside of the target market. We selected outdoor media for the advertisement for numerous reasons, including to showcase brand creative and drive brand awareness on a large scale, to maximise reach, volume and distribution to afford national visibility of the advertisement, and to target affluent, inner city hubs relevant to the target market through specific location selection.

The advertisement is not intended nor does it actually appeal to young people (being children under 14 years) and it does not contain any sexualised poses or innuendoes. The nudity is not disproportionate as there is complete coverage of all potentially sensitive areas of the female body and it is also relevant to message of the advertisement and the brand and products that the advertisement seeks to promote. Prior to going to market, we note that the Outdoor Media Association requested minimal changes to the advertisement, which were all implemented i.e. not using an image where the models were not smiling and also increasing the logo to ensure all body parts were appropriately covered.

Based on the above, we respectfully submit that the advertisement complies with the AANA Code of Ethics. We consider that the advertisement falls within acceptable community standards regarding nudity and note that the overwhelming response to this advertisement generally has been positive and much support has been received for the campaign.

We appreciate the opportunity to respond to the complaint and acknowledge the advertiser’s commitment to self-regulation of advertising in Australia. We sincerely hope that the Board reviews the advertisement positively having regard to the points raised above.

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 concerns that the advertisement is offensive.

The Board viewed the advertisement and noted the advertiser’s response.

The Board 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 billboard features two women sitting close together with their arms covering their breasts.

The Board noted that whilst the advertisement uses naked women, the pose was not overtly sexualised, sexually suggestive or provocative. The Board considered that in the context of the skin care product being advertised, the image was treated with sensitivity.

The Board noted it had previously dismissed a similar complaint in case 0336/13.

“The Board noted the complainants’ concerns about the level of nudity in the advertisement and considered that whilst the women are clearly naked they are positioned in a way which ensures their private areas are covered. The Board noted that the advertised product is a skin care lotion and considered that it is reasonable for an advertiser to show skin when advertising such a product providing that the image does not breach the provisions of the Code. The Board noted ... that the inclusion of nudity does not of itself amount to sexualisation. The Board noted that the woman are posing in a manner which suggests they are happy and confident and considered that the women are not posing in a sexual manner and that the overall image is not sexualised. The Board considered that in this instance the overall image is artistic and the level of nudity is not inappropriate for a broad audience which would include children”.

Consistent with the previous determination, the Board considered that the current advertisement, which is an extract of the advertisement in 0336/13, did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.

The Board determined that the advertisement did not breach Section 2.4 of the Code.

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