



Case Report

1	Case Number	0122/13
2	Advertiser	Fusion Retail Brands
3	Product	Clothing
4	Type of Advertisement / media	Billboard
5	Date of Determination	01/05/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The billboard features the well-known Australian personality Ruby Rose wearing only jeans and heels as she stands from behind with her head turned to face the viewer. Her left hand sits in the back pocket of the jeans and her right hand is bent to cover her chest. The slogan reads "Get Back."

THE COMPLAINT

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

The woman is topless. She would not be allowed to walk our streets like this, let alone sit at the bus-stop where the primary school children catch the bus. And yet we allow a topless model to promote wearing Jag jeans, in a bus stop, outside a Catholic primary school. The logic defies me. Our children are being bombarded by sexuality everywhere they look. This is affecting them mentally and physically in a negative way, and research confirms this assertion.

THE ADVERTISER'S RESPONSE

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

It is alleged that the advertisement raises an issue under section 2 (particularly section 2.4) of the AANA Advertiser Code of Ethics ('the Code'). Section 2.4 states: 'Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.'

JAG respectfully submits that the advertisement does not contravene section 2 of the Code, and in particular does not breach section 2.4.

The advertisement is part of JAG's 'Get Back' re-launch campaign. The campaign features a series of edgy denim looks with new-release JAG jeans being the core product showcased. The advertisement is intended to highlight JAG's new line of women's denim jeans and Ruby Rose is featured topless to draw attention to the product. Whilst the advertisement shows Ruby Rose's bare back, no private areas are exposed and her breasts are not visible. Her pose is a confident stance and is not overtly sexual.

The advertisement is in line with the common method of advertising jeans to which members of the public would be familiar. It is also consistent with the Advertising Standards Board's ('the Board') comment in decision 0145/1: "The Board considered that it is reasonable for an advertiser to feature a particular product in its advertising and that the depiction of a woman... without a top is not of itself a depiction of nudity or sex that would breach the Code".

JAG appreciates that the advertisement is outdoor and open to viewing by a broad audience including children. JAG respectfully submits that the advertisement is not inappropriate to a broad audience as the image is not strongly sexualised and there is no inappropriate nudity. We also note that JAG is not aware of any other complaints made about this advertisement and the public response to the advertisement to date has been overwhelmingly positive.

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 features a topless woman and is inappropriate for outdoor display, particularly next to a school.

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 the advertisement features television personality, Ruby Rose, wearing a pair of jeans and high heeled shoes with her back to the camera and her right hand cupping her left breast.

The Board noted the complainant's concerns that a topless woman is not an appropriate image for outdoor display. The Board noted it had previously upheld an image of a topless model which appeared on a bus (case reference 0145/11) where it found,

"...it is reasonable for an advertiser to feature a particular product in its advertising and that the depiction of a woman (or a man) without a top is not of itself a depiction of nudity or sex that would breach the Code. In the current advertisement, although not wearing a top, the woman's breasts are covered by her hair.

The Board noted that the image is a large image on buses and is therefore able and likely to be seen by a very broad audience including children...this image of a young woman with no top and breast partially exposed does not treat sex, sexuality and nudity with sensitivity to the relevant audience”.

A minority of the Board considered that in this instance although the woman’s breast is covered by her hand it is still partially exposed and her hand is drawing attention to her nudity in a manner which is sexualised and not appropriate in the context of an outdoor advertisement.

The majority of the Board however considered that whereas in the upheld case (0145/11) the model was young and advertising a product aimed at young women, in this instance the model is a well-known adult woman advertising a product for adults and whilst it is clear she is not wearing a top the overall image is in the Board’s view not strongly sexualised and does not reveal her nipples or significant breast therefore the level of nudity is not inappropriate. The Board noted that the advertisement is outdoors and so would be likely to be seen by children and considered that whilst the image is sexualised it is not so strong as to be inappropriate for the relevant audience.

The Board considered that the image did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and determined that the advertisement did not breach Section 2.4 of the Code.

Further finding that the advertisement did not breach the Code on any grounds, the Board dismissed the complaint.