



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0128-22
2. Advertiser :	PVH Brands
3. Product :	Lingerie
4. Type of Advertisement/Media :	Poster
5. Date of Determination	22-Jun-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This point-of-sale poster advertisement for Calvin Klein features a young woman in black lingerie sitting back on her heels with her legs slightly apart and her arms resting on her legs with her hands resting in between her legs.

THE COMPLAINT

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

The Calvin Klein model is using her hands to draw attention to the genital region. I am curious and would appreciate Myer explaining what this poster is trying to achieve with the model's pose i.e. the model is using her hands to draw attention to this region, hence why I looked up closely, and my question is what actually is between her legs?

THE ADVERTISER'S RESPONSE

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



The CALVIN KLEIN underwear image was shot by NY based photographer Stevie Dance. The image features a model in Calvin Klein underwear which is being used to promote the sale of our underwear offering.

We make the following over-arching points:

(a) The talent is depicted in a relaxed, natural pose that is commonly used within the fashion industry. She is sitting on her feet, with her arms hanging in a relaxed position and her hands resting naturally on her thighs. Her hands are not positioned to draw attention to any part of her body. To the contrary, the natural focal point of the creative and to which attention is drawn is the direct gaze of the talent.

(b) The intent is to promote our underwear offering within the store, including both top and bottom underwear options. The talent's relaxed, natural pose is consistent with the other natural poses used by both male and female talent in this campaign, as shown in the additional examples from this campaign copied below: (see images in attachment)

In reference to Section 2 of the code, we note that the complaint concerns only 2.2 and 2.4, but we have dealt with each part of Section 2 as referenced in your letter for completeness.

2.1 We do not believe that the talent featured in the ad is discriminated against nor any area of the community is vilified by the creative.

2.2 The creative is neither exploitative nor degrading to women or anyone else. As the additional examples above demonstrate, the overall campaign features both men and women in similar relaxed, natural poses.

2.3 There is no suggestion of violence.

2.4 The talent is clothed in our product, there is no nudity. No sensitive areas of her body are shown. The ad is not overtly sexualized and the imagery is not inappropriate in the context of a fashion advertisement that is promoting underwear to adults. These products are not aimed at or sold to children. The advertisement is appropriate for today's consumer and community attitudes, and treats sex, sexuality and nudity with sensitivity to the relevant audience.

2.5 No language has been used and therefore, is not contravening the code and is not offensive.

2.6 The ad does not contravene the standards on Health and Safety.

2.7 The Ad: (i) features underwear that is prominently branded with the Calvin Klein name, and therefore is easy to distinguish as belonging to the brand especially given its proximity to saleable product, and (ii) is consistent with this type of advertising used at a point of sale within a store.



It is respectfully submitted that the complaint should be dismissed.

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 concerns that the advertisement draws attention to the woman's crotch.

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 the advertisement depicts a woman in underwear sitting on her feet with her legs apart and her hands relaxed in front of her. The Panel considered that an image of a woman in underwear may be considered to contain sexual appeal.

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

The Panel noted that the advertisement was for Calvin Klein underwear products available at the store and considered that it was reasonable for the woman to be depicted wearing that product in the advertisement. The Panel considered there was no irrelevant focus on the woman's body or body parts and considered that there is no suggestion that the woman herself is an object or commodity.

The Panel considered that the advertisement did not employ sexual appeal in a manner which is exploitative of the woman.

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 underwear and the products available for purchase from the brand and this did not lower the women in character or quality.

The Panel noted that the woman is alone, in a relaxed pose and there is no suggestion that she is in pain or discomfort.

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

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 considered that the woman is not engaging in sexual activity 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 was wearing underwear, however considered that the underwear is full coverage and is not sexualised. The Panel considered that while the woman’s hands are relaxed in front of her, their placement does not draw particular attention to her crotch. The Panel considered that the advertisement was not sexualised.

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 depicted in underwear and considered that this is a depiction of partial nudity.

Is the issue of 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 advertisement was placed in the section of the store where the product is sold and considered that the audience for this advertisement would be predominately people shopping for underwear.

The Panel noted that although the woman was depicted in underwear, her breasts and genitals were appropriately covered. The Panel considered that most members of the community would not consider the depiction of women in underwear to be inappropriate nudity.



The Panel considered that the pose of the woman was relaxed and confident and she was not posed in an overly sexual manner.

Overall, the Panel considered that the advertisement did not feature overtly sexual imagery.

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.