



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0155/19
2	Advertiser	Embella Pty Ltd
3	Product	Retail
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	12/06/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for jewellery features a woman in various clothing and scenes.

THE COMPLAINT

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

I have sent the email below to the business owners fyi. Also your form needs updating, why does one need to state what one's salutation is - i.e. Mr, Mrs, Miss etc? Dear Embella proprietors, FYI your recently-aired advertisement for your business has been reported to the ACMA and FreeTV. Showing a young woman's g-string-clad rear end is not appropriate for family peak time advertising. Do you believe this will attract more business by showing nudity? This segment should be edited out of your current advertisement. You did not include nudity in your previous advertisement campaign which ran on commercial tv, so why do you have to now include nudity? We all know businesses are struggling in Darwin due to the economic downturn but to include nudity shows how desperate a business is to have to resort to this sort of advertising.



I have been advised by Nine Entertainment this week via email the following:

"This Advertisement has been classified G by CAD. Material classified G states: General: May be broadcast at any time except during P and C (Children's) programs or adjacent to P or C periods".

I would like to take this opportunity to explain why I do not believe it should be shown on television at any time of day. Could you include this email as an addendum to my complaint please? It was broadcast on Anzac Day 2019 just before 8 am (and is still being aired since its introduction to Channel 9 from mid-April 2019), children would have been watching at that time however regardless of children watching, would a rear view of a male model's bare buttocks wearing a g-string be shown on television? I doubt it would.

I hope the Ad Standards Community Panel deem the female's bare buttocks be edited out of the advertisement for Embella. I have no complaint about the remaining footage of the advertisement.

There are also Sarah Lyn (a women's lingerie outlet in Darwin) advertisements running on television (Ch7) and have been for many years, they show female models in lingerie but they have never aired a female's bare buttocks in a g-string. The Embella advertisement (showing nudity) is a first for a NT commercial television station (I have lived in Darwin for 40 yrs) and I do not believe it is necessary to show they sell g-string bikinis and how they look when worn, it is too raunchy for television and in my opinion Embella should not be allowed to take advantage of showing nudity to sell their swimwear.

THE ADVERTISER'S RESPONSE

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

This TV advert was designed to showcase our jewellery and clothing brand set in the tropical location that we live in, the Northern Territory. Our brand is very much focused around those who embrace life and the environment. Our jewellery is designed to be worn in the ocean, browsing your local markets or dressing up for a dinner party. We are proudly Australian owned and we wanted to evoke the feeling of empowerment and self expression with our advertising.

I would like to plead my case why our TV advert should be allowed to be aired as per its original edit and CAD rating. We feel that the section 2.4 has not been breached as female swimwear fashion has evolved with every generation. The style of bikini our model is wearing is sold widely in many shops and can be found worn at every beach and pool in Australia by all different demographics of women. Our brand is focused on



empowering women and giving them confidence to be themselves. The young model who is showcased in our advert is a fit and healthy young woman who worked closely with our creative team to produce this advert and was fully supportive of the finished product. We feel that the TV advert represents our brand and has been widely praised throughout the local community in Darwin.

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 depicts a woman in a g-string and that this depiction of nudity is inappropriate for family viewing times.

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

The Panel noted that this television advertisement has a 15 second version and a 30 second version. The Panel noted however that a scene depicting a woman's buttocks in a g-string only appears in the 15 second version.

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 considered whether the advertisement contained sex, sexuality or nudity.

The Panel considered whether the advertisement contained 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 noted that this advertisement is for jewellery and features a woman in various clothing in various environments, such as beside a pool, in a bamboo forest, and on a beach. The Panel considered that the woman depicted in the advertisement did not appear to be engaged in sexual activity of any kind. The Panel considered that the advertisement did not contain sex.

The Panel considered whether the advertisement depicted 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 for the application of the term in the Code, the use of male or female actors in an



advertisement is not of itself a depiction of sexuality.

The Panel considered that the advertisement features a woman in various outfits and in various environments. The Panel considered that while the woman is not the focus of the advertisement, there are several close up scenes of the jewellery which also subsequently include a close up of the woman. Additionally, the Panel considered that the depiction of the woman in swimwear and the manner in which she moves is sensual, and most members of the community would consider this to be a depiction of sexuality.

The Panel then considered whether the advertisement depicted sexuality 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 noted that the requirement to consider whether a depiction of sexuality 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 references is or might be is relevant to the Panel considering how children, and other sections of the community, might consider the advertisement.

The Panel noted that this was a television advertisement and as such the relevant audience would be broad and would likely include children.

The Panel considered that the advertisement depicted a woman in swimwear as she moved through various environments, and considered that the style of the advertisement was artistic and not dissimilar to many other fashion advertisements. The Panel considered that most children viewing the advertisement would see a woman in fashion poses and jewellery and would be likely to understand that this advertisement was for a business selling jewellery.

The Panel considered whether the advertisement contained nudity and 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 a factor when considering whether an advertisement treats nudity with sensitivity to the relevant audience.

The Panel noted the complainant's concern that the advertisement depicts a woman in a g-string and that this depiction of nudity is inappropriate for family viewing times.



The Panel noted that a scene in the advertisement depicted a woman in a two piece swimsuit. The Panel noted that the woman's breasts and genitals are covered by the swimsuit. The Panel noted that the swimsuit is high cut over the woman's bottom, however considered that the swimsuit is not a g-string style, and her gluteal cleft is not visible. The Panel considered that although some members of the community would prefer the swimsuit to be higher coverage, the swimsuit is similar to current fashion trends and this depiction of the woman is unlikely to be considered nudity to most members of the community.

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

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.

