



**Ad Standards** Community Panel  
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Advertising Standards Bureau Limited  
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# Case Report

1	<b>Case Number</b>	<b>0157/19</b>
2	<b>Advertiser</b>	<b>Honey Birdette</b>
3	<b>Product</b>	<b>Lingerie</b>
4	<b>Type of Advertisement / media</b>	<b>Poster</b>
5	<b>Date of Determination</b>	<b>12/06/2019</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

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

## DESCRIPTION OF THE ADVERTISEMENT

This poster advertise depicts a woman standing in a black lace bra, garter belt, underpants and stockings. The lingerie style is titled Victoria.

## THE COMPLAINT

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

*Images are sexualised and resemble porn. They do not belong on public display. It is illegal to display this type imagery in all other avenues of public life (as per the Sex Discrimination Act) because it verifiably causes harm. Placing a product name on the image and calling it an ad cannot stop the harm.*

## THE ADVERTISER'S RESPONSE

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

*Advertiser did not provide a response.*



## **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 highly sexualised, resembles porn and is inappropriate for public viewing.

The Panel viewed the advertisement and noted the advertiser did not provide a response.

The Panel noted that the poster advertisement features a woman standing in a black lace bra, garter belt, underpants and stockings. The lingerie style is titled Victoria.

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 noted the complainant's concern that the advertisement is highly sexualised, resembles porn and is inappropriate for public viewing.

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 the woman was posed wearing lingerie and considered that such a pose and such attire was not in itself a depiction of sexual intercourse or sexually stimulating or suggestive behaviour. The Panel considered that the advertisement did not contain sex.

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 image references sexual matters by being a store for sexy lingerie and that the image of the woman posed in a manner that suggests she is showing off the sexy lingerie is a depiction of the woman expressing their sexuality.



The Panel considered whether the advertisement treated the issue of sexuality with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code states:

“Images which are not permitted are those which are highly sexually suggestive and inappropriate for the relevant audience. Explicit sexual depictions in marcomms, particularly where the depiction is not relevant to the product or service being advertised, are generally objectionable to the community and will offend Prevailing Community Standards.”

The Panel considered that the depiction of the woman wearing this style of lingerie was relevant to the product being promoted. The Panel considered that although it is reasonable for an advertiser to depict the product being promoted, the depiction should be treated 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 sexual suggestion 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 suggestions 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 image appears in store windows and considered that the relevant audience includes retail workers, people shopping in the Honey Birdette store and people who are not shopping at Honey Birdette but who are walking past the store, and that this last group would include children.

The Panel considered that while the style of the lingerie is sexualised, the woman’s pose is confident and not inherently sexually suggestive. The Panel acknowledged that the sexualised nature of the product itself may not be considered appropriate by some people shopping in the centre, including those with young children, however in this instance the Panel considered that there was no sexual messaging or themes in the advertisement which would make it confronting for these audiences. The Panel considered that young children would be unlikely to view this advertisement as sexually suggestive, and the most likely interpretation by this audience would be of a woman posing in underwear that is available for sale in the store. The Panel considered that the advertisement was sexually suggestive due only to the nature of



the product, but not highly sexually suggestive and that the advertisement did treat the issue of sexuality with sensitivity to the relevant audience.

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 factor when considering whether an advertisement treats nudity with sensitivity to the relevant audience.

The Panel noted that the woman is not entirely nude, however noted that her nipples are visible through the lace bra.

The Panel then considered whether the advertisement treated the issue of nudity with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code provides:

"Full frontal nudity and explicit pornographic language is not permitted. Images of genitalia are not acceptable. Images of nipples may be acceptable in advertisements for plastic surgery or art exhibits for example."

The Panel noted that they have previously considered a similar advertisement for the same advertiser in case 0543/18, in which:

"The Panel noted that the woman was wearing blue lace underwear and that her genitals are covered. The Panel noted that the outline of one of the woman's nipples is visible through the lace underwear. The Panel considered that the woman's nipple was visible due to the style of the lingerie, but was mostly covered by the lace feature and was not a significant focus of the advertisement. The Panel considered that the woman's breasts are not fully exposed and that the visible outline of a nipple was not inappropriate in the context of the product being advertised."

Similar to case 0543/18, the Panel considered that in this instance the outline of the woman's nipples was not inappropriate given that the product advertised was a lace bra and that the woman's nipples were partially obscured by the black lace detailing. The Panel considered that the woman's nipples were not the focus of the advertisement and were not immediately apparent when viewing the advertisement.

The Panel considered that the woman's genitals were not visible and that the women's nipples and full breasts were obscured and not the focus of the advertisement. The Panel considered that there was no overt nudity at a level that most members of the community would find confronting or unacceptable.



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