



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	Case Number	0174/19
2	Advertiser	Honey Birdette
3	Product	Lingerie
4	Type of Advertisement / media	Poster
5	Date of Determination	26/06/2019
6	DETERMINATION	Upheld - Not Modified or Discontinued

## ISSUES RAISED

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

## DESCRIPTION OF THE ADVERTISEMENT

This poster advertisement features two women in black and mesh lingerie facing each other. One of the woman is sitting on a raised surface and the other woman is leaning towards her. The text on the advertisement reads 'London Calling Chanee'.

## THE COMPLAINT

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

*This marketing material is not appropriate for a broad audience such as children. The lingerie is see through and the woman's nipple is clearly visible through the mesh material of the bra. The women's breasts are pressed against each other, they appear to be about to kiss and one hand is placed on the other woman's thigh. This marketing should only be inside the store. Children should not be exposed to this in a shopping mall.*



## **THE ADVERTISER'S RESPONSE**

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

*The 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 not appropriate for a broad audience such as children.

The Panel viewed the advertisement and noted the advertiser did not respond.

The Panel noted that the advertisement features two women in black and mesh lingerie facing each other. One of the woman is sitting on a raised surface and the other woman is leaning towards her. The text on the advertisement reads 'London Calling Chanee'.

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 noted the image depicts two women in black and mesh lingerie facing each other. A blonde woman is sitting on a raised surface and a brunette woman is standing slightly in between her legs and leaning into her. The image shows the women's breasts touching, and the brunette model's hand is on the blonde model's thigh.

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 whether the image depicted 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 considered that the depiction of two women in revealing lingerie is not of itself a depiction of sexual intercourse, sexual stimulation or suggestive behaviour. However, the Panel considered that the positioning of the women, the lingerie they are wearing and their facial expression is indicative of a sexual relationship, or a likely prelude to sex.

The Panel considered that the advertisement was sexualised in that it did allude to sexually suggestive behaviour.

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

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 the use of male or female actors in an advertisement is not of itself a depiction of sexuality.

The Panel considered that the depiction of the women 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 considered 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 the pose of the women is sexually suggestive, and that most members of the community would consider their pose to be an indicator of a sexual relationship, particularly when wearing the lingerie. The Panel noted that the lingerie worn in the advertisement is available for purchase at Honey Birdette, however considered that products must still be advertised in a manner that is suitable for advertising on the front window of a store that is located in a shopping centre.

The Panel considered that many people in the community, including those who would view this advertisement, would find it confronting for an advertisement to feature images which appear to depict a sexual relationship or a prelude to sex. The Panel considered that the advertisement did not 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 bra worn by the blonde model in the advertisement was sheer and that her nipples are visible through the fabric.

The Panel considered the Practice Note for the Code which 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 considered that although the model's nipple is visible, it is not the focus of the advertisement and it is obscured by the black mesh of the bra. The Panel considered that there was no overt nudity at a level that most members of the community would find unacceptable.

The Panel determined the advertisement did not treat sex, sexuality and nudity with sensitivity to the relevant audience and did breach Section 2.4 of the Code.

Finding that the advertisement breached 2.4 of the Code, the Panel upheld the complaint.

## **THE ADVERTISER'S RESPONSE TO DETERMINATION**



The advertiser has not provided a response to the Panel's determination. Ad Standards will continue to work with the advertiser and other industry bodies regarding this issue of non-compliance.