



**Ad Standards** Community Panel  
PO Box 5110, Braddon ACT 2612  
P (02) 6173 1500 | F (02) 6262 9833

**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	Case Number	0175/19
2	Advertiser	BelleLily
3	Product	Lingerie
4	Type of Advertisement / media	Internet
5	Date of Determination	26/06/2019
6	DETERMINATION	Upheld - 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 internet advertisement appeared on the Sydney Morning Herald website and features an image of a woman from behind wearing lace underwear that is split down the middle exposing the woman's buttocks.

## THE COMPLAINT

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

*It was completely inappropriate to come up on a newspaper website, especially one that I would show articles to my kids on.*

*There is too much nudity on a website with a very general audience, and where it would be difficult to avoid that image. The image occupies the entire mobile screen as you are scrolling through the article. The nudity is also not a small part of the ad - the butt crack is a significant part of the ad. If you were sitting in an office or a public*





*space reading the article, and someone glimpsed over as you were scrolling over the ad, it would very much look like pornography.*

## **THE ADVERTISER'S RESPONSE**

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

*All lingerie product ads have been cancelled.*

## **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 complainants' concern that the advertisement was inappropriate and looked like porn.

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

The Panel noted that this internet advertisement appeared on the Sydney Morning Herald website and features an image of a woman from behind wearing lace underwear that is split down the middle exposing the woman's bottom.

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 internet advertisement is for lingerie. A woman's bottom is depicted in underpants with the bottom fully visible. The Panel considered that the person 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 underpants depicted in the advertisement may not be suitable for normal daily wear and are more likely to be used in a manner relating to sex. The Panel considered that the overall pose of the woman and the image of sexually suggestive lingerie is a depiction of sexuality.

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 considered that the woman's bottom is the focus of the advertisement, and that this is a depiction of nudity.

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 sexuality and nudity 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 the nudity 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 appeared as an advertisement on the Sydney Morning Herald website. The Panel considered that the relevant audience for this advertisement is most likely to be predominately adult. The Panel considered however that many people view this website during their commute or at work, and that an advertisement depicting a woman's mostly bare bottom would be considered by most members of the community to be inappropriate for such environments.

The Panel considered that the advertisement did not treat the issue of nudity with



sensitivity to the relevant audience.

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. The Advertiser did indicate in its initial response to the complaints that "All lingerie product ads have been cancelled".