



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0195-22
2. Advertiser :	Bendon Ltd
3. Product :	Lingerie
4. Type of Advertisement/Media :	TV - On Demand
5. Date of Determination	24-Aug-2022
6. DETERMINATION :	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This TV-on-demand advertisement features several women in lingerie playing poker. There are close-ups of the details of the lingerie. The ad finishes with the tag line "It's your game" and information about where to purchase the lingerie.

THE COMPLAINT

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

My kids and I are trying to watch millionaire hotseat at after school and naked women who are gambling are suddenly on the tv. Idk when this started being ok or how this was approved. Horrible ad please remove this. Children watch your program.

The advertisement is essentially soft porn and was played in almost every advertisement break for at least an hour. As this was on a catch up program (which we were watching during the day) it could be viewed by anyone of any age in the house.

Beyond that I feel it is an inappropriate advertisement to be on free to air television due to the highly sexualised content of the advertisement.

THE ADVERTISER'S RESPONSE



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

We can confirm that this OnDemand campaign for Pleasure State is no longer running.

Due to the nature of lingerie products, we were mindful to run this ad only to an age targeted audience, National Women aged 25-54, so it should only be delivering to logged in users who meets this criteria.

We were also told by 9Now that the video has an M rating and be run after 9:30pm, so we are in communication with our media representative regarding the placements outside of agreement.

The concept of the video is to show real women in our products enjoying a private card game at home by themselves. All women are wearing skin-coloured covering underneath their briefs, and bras were worn for product accuracy.

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' concerns that the advertisement:

- Is overtly sexual and features nudity
- Is inappropriate for children to view.

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 this advertisement features women in lingerie with close-ups of the lingerie. The Panel considered that the advertisement did contain sexual appeal.

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



The Panel noted that the advertisement was for lingerie available at Bendon Lingerie and considered that it was reasonable for the women to be depicted wearing the products in the advertisement. The Panel considered that while there may be a focus on the women's body parts, this was relevant to the lingerie products being promoted.

The Panel considered that there was a focus on the women's bodies in the advertisement, however considered that the women are depicted in a confident manner and not in a manner suggesting that they were submissive or objects to be used. The Panel considered that the overall impression of the advertisement is that the women have chosen to wear the lingerie and feel comfortable and confident posing in it.

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

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 lingerie and the products available for purchase at Bendon Lingerie and this in itself did not lower the women in character or quality.

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

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:

"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."

Does the advertisement contain sex?

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 considered that the women are not engaged in sexual behaviour. The Panel considered that the advertisement did not contain sex.

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

The Panel considered that the advertisement is promoting lingerie and the women are depicted in a sultry manner, with corresponding music. The Panel considered that the advertisement does depict sexuality.

Does the advertisement contain nudity?

The Panel 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 noted that the women in the advertisement are depicted in lingerie, and considered that this is a depiction of partial nudity.

Are the issues of sexuality and nudity 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’ 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.

The Panel noted that this advertisement appeared on TV On Demand in daytime and late afternoon time slots. The Panel considered that the audience at this time would be broad and would include children.

The Panel noted the advertiser’s response that the women are depicted playing a card game at a home by themselves, however considered that the dealer appears to be



fully dressed and the interpretation could be that they are in a formal wagering venue.

The Panel considered that the women are depicted in a strongly sexualised manner, and there is a focus on the lingerie product and consequently close-ups of the women's bodies. The Panel noted that there is no depiction of nipples or genitals in the advertisement, however considered that the imagery is overtly sexual.

The Panel considered that such imagery may be appropriate during later time-slots, however its broadcast during the day and late afternoon/early evening when children are likely to be watching television with their families is not appropriate.

Overall the Panel considered that the advertisement is overtly sexual and did not treat the issue of sexuality and nudity with sensitivity to the relevant broad audience.

Section 2.4 Conclusion

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

Conclusion

Finding that the advertisement did breach Section 2.4 of the Code, the Panel upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

We are no longer running the ads in question and they will not be used again in these mediums (TV and TV on Demand).