



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

**AdStandards.com.au**

Ad Standards Limited  
ACN 084 452 666

## Case Report

<b>1. Case Number :</b>	<b>0209-21</b>
<b>2. Advertiser :</b>	<b>The Erotic Ball</b>
<b>3. Product :</b>	<b>Sex Industry</b>
<b>4. Type of Advertisement/Media :</b>	<b>Email</b>
<b>5. Date of Determination</b>	<b>28-Jul-2021</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This advertisement is an email promoting an adults-only event. The email includes a video which plays a 3 second segment of a YouTube video, which can be accessed by clicking on the video in the email.

The embedded video has three main scenes:

- a woman in black lingerie positioned on her knees and leaning backward
- a woman in white lingerie doing a body roll
- a woman in black lingerie (including g-string) shown from behind, positioned on her hands and feet, stomach down.

### THE COMPLAINT

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

*I never enrolled to receive their communication, and they have not checked their recipient list as my niece, who is 13yo, also received the email. the content is completely inappropriate and should not be advertised to under aged people. I contacted them to complain and ask where they got my email but they never responded.*



## **THE ADVERTISER'S RESPONSE**

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

*Everyone on our mailing list has subscribed, has been to a past event or recently bought tickets to a future event.*

*On our site, we have a warning that says "click to enter only if you are 18+"*

*Anyone who attends our functions must be over 18.*

*We have a T&C check box before people can subscribe to our mailing list which says "if you are under 18 years of age, or if you are accessing this site from a location where sexually explicit material is prohibited by law, please do not enter"*

*We also do not spam our customers, nor sell or trade their details.*

*We also have an unsubscribe button at the bottom of all our emails.*

*We would never target minors with our emails.*

*We have never ever received a complaint about our emails or newsletters in over 20 years.*

*Our newsletters never contain content that includes nudity, violence, discrimination, vilification, exploitative or degrading content.*

*Our events are for consenting adults only and while our content may refer to peoples sexuality, it is never in a degrading way.*

*Our next event is actually a fundraiser for LGBTIQ mental health. (formerly the Aids council of QLD)*

## **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 targeted towards under 18's which is inappropriate due to the adult nature of the event.

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



## **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:

*“Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisements for toiletries and underwear) is generally permitted but note the application of the relevant audience. More care should be taken in outdoor media than magazines, for example.*

*“Images of models in bikinis or underwear are permitted, however, unacceptable images could include those where a model is in a suggestively sexual pose, where underwear is being pulled up or down (by the model or another person), or where there is clear sexual innuendo from the ad (e.g. depicting women as sexual objects).”*

### **Does the advertisement contain sex?**

The Panel considered whether the advertisement contained sex. The Panel noted the definition of sex in the Practice Note is “sexual intercourse; person or persons engaged in sexually stimulating behaviour”.

The Panel considered that the advertisement while the advertisement contained sexualized themes and imagery, the advertisement did not contain sex.

### **Does the advertisement contain sexuality?**

The Panel noted the definition of sexuality in the Practice Note is “the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters”.

The Panel noted that the advertisement is for an adults only event with a sexual theme and noted that the advertisement contains a segment of a YouTube video in which sexualized material is present. The Panel considered that the advertisement did contain sexuality.

### **Does the advertisement contain nudity?**

The Panel noted that the definition of nudity in the Practice Note is “the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity”.

The Panel noted that the advertisement contains a segment of a YouTube video in which partial nudity is depicted.

### **Are the issues of sexuality and nudity treated with sensitivity to the relevant audience?**



The Panel noted that the definition of sensitivity in the Practice Note is “understanding and awareness to the needs and emotions of others”.

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 the complainant had advised that they and their niece, a minor, had received this email advertisement. The Panel noted the complainant’s statement that neither they nor their niece had subscribed, and noted the advertiser’s response that the email was only sent to subscribers, attendees of a previous event or those that had purchased tickets to a future event.

The Panel noted that the intention of the advertiser was to promote the adults-only event and considered that an email sent to a person that had not subscribed was unintentional and that therefore the relevant audience was adults that had subscribed to receive communications from the advertiser.

The Panel considered that the advertisement does feature sexual themes and imagery however considered that such material was not inappropriate for an adult audience of people that had subscribed to an email.

#### **Section 2.4 Conclusion**

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

#### **Conclusion**

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