



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	0218/19
2	Advertiser	Honey Birdette
3	Product	Lingerie
4	Type of Advertisement / media	Poster
5	Date of Determination	10/07/2019
6	DETERMINATION	Upheld - Not Modified or Discontinued

ISSUES RAISED

- 2.2 - Objectification Degrading - women
- 2.2 - Objectification Exploitative - women
- 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 a video with a series of still images that change quickly, and a series of still images that are on screen for a longer time.

Description of Video: Each image is displayed for a brief time, and features the same brunette woman in black bralette with sheer mesh and leather trim. The lingerie style is titled 'Alina'. The poses are different in each image.

1. Woman is posed with her hands on her hips, looking into camera. Text stating "Red Alert. In 2019, women are still under censorship" is displayed across the woman's breasts and her nipples are not visible. Image stays on screen for approximately two seconds.
2. Woman is posed with one arm across her waist, and her other arm up with her finger on her lip. She is looking to the side of the camera. There is no text in this image, and the woman's nipples are visible. The image stays on screen for





approximately half a second.

3. Woman is posed with one arm across her waist, and her other arm up with her finger on her lip. She is looking to the ground, or her eyes are closed. There is no text in this image, and the woman's nipples are visible. The image stays on screen for approximately half a second.

4. Woman is posed with one arm across her waist, and her other arm up with her hand covering part of her face. She is looking to the ground, or her eyes are closed. There is no text in this image, and the woman's nipples are visible. The image stays on screen for approximately half a second.

5. Woman is posed with both hands on her temples, and looking into the camera. There is no text in this image, and the woman's nipples are visible. The image stays on screen for approximately half a second.

5. Woman is posed with both hands on her temples, and looking into the camera. Text stating "In 2019, women are still under censorship" is displayed across the woman's breasts and her nipples are not visible. Image stays on screen for approximately two seconds, and towards the end the "Red Alert" text appears again. The image stays on screen for approximately two seconds.

Description of Images: Each image features the same brunette woman in various lingerie as poses, as detailed below.

1. Woman depicted wearing a sheer bodysuit, the bottom of which is sheer mesh. Text stating "Red Alert. In 2019, women are still under censorship" is displayed across the woman's breasts and her nipples are not visible.

2. Woman is posed with one arm across her waist, and her other arm up with her hand covering part of her face. with her finger on her lip. She is looking to the ground, or her eyes are closed. There is no text in this image, and the woman's nipples are visible.

3. Woman is depicted in sheer bodysuit with leather trim, and posed with one arm at her side and the other hand at her shoulder. She is looking at the camera. There is no text in this image, and the woman's nipples are visible.

4. Woman is depicted in black bodysuit, and posed side on looking at the camera. There is no text in this image.

5. Woman is depicted in black bodysuit with a solid upper half and a sheer bottom half. She is posed with both hands at her neck. Looking toward the ground or with her eyes closed. There is no text in this image.



6. Woman depicted wearing a black bralette, garter belt and underpants, posed standing with her hands on her head. She is looking to the side. There is no text in this image.

7. Woman is depicted in black bodysuit with a solid upper half and a sheer bottom half. She is posed with one hand on her hip and one hand at her face, looking towards the camera. There is no text in this image.

THE COMPLAINT

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

Several of the images feature completely sheer bras/tops/bodysuits so breasts are on full display. Fabric is also completely sheer in pubic area. The image resembles those that would be seen in porn publications. The woman is sexually objectified. Her body is clearly the subject of the images- not the pieces she is wearing. Bear in mind these are larger than life (at lakeside) and floor to ceiling (Forrest chase) images on display in high traffic areas frequented by children.

I understand that lingerie companies need to advertise their products as any retail company does, however this collection of images is over the top. It is of a highly suggestive sexual nature, and it leaves absolutely nothing to the imagination. This selection of images are being shown in a highly popular shopping centre that receives high traffic, a very good portion of it being families with children. I see no reason why this advertisement could not have been reproduced with nipple covers. It is clearly designed to shock people walking by, which it certainly did considering the person in the images was shown at a size much larger than an average person.

Breaches community standards and legislation in advertising to have this degree of nudity in a shopping centre teeming with women and children.

THE ADVERTISER'S RESPONSE

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

Her breasts are not "fully on display" they are actually covered in lingerie, lace, and detail, with an underwire and pattern.



The fabric is not sheer in the pubic region – the pubic region has been photoshopped out.

She is not sexually objectified. The model's name is Jennifer Berg and she is from the high profile agency Elite LA and has previously modelled for many lingerie companies world-wide in similar products. She is also a model that is empowered by the product that she is wearing and that we sell in-store. In order to sell it (like any other retailer) we need to show it.

If a model in an advertisement is confident it doesn't automatically mean that she is "porn" or "sexually objectified". It means that she is simply a model advertising lingerie for a lingerie store and is not ashamed to be confident or empowered. Referring to her as porn is highly offensive to the model, to women, and to 2019. You would see more skin at the beach. We have taken more than twenty images around the centre with male nipples on display. Can the customer please explain the difference? Why is the female nipple the sexualised one when the male nipple is not? Why are we teaching young girls and women to be ashamed of their bodies? The female form not a matter of vulgarity or indecency. We are here to empower women and we are going to continue to do that.

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:

- resembles images that would be seen in porn publications
- depicts the woman's body as the subject of the images not the product
- is highly sexually suggestive and inappropriate to be seen in full view of children
- contains images of a woman's nipples which amount to inappropriate nudity for a public space

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

The Panel noted that the television out-of-home advertisement was in the windows of Honey Birdette stores, facing out into the public in shopping centres and on the street. The advertisement featured a quick succession edit of six images of a woman wearing a sheer black mesh bralette with leather straps and matching waspie. The first image features the woman from her hips up, with her hands on her waist. The words 'RED ALERT', 'In 2019 women are still under censorship' and 'Alina!' are superimposed over the woman's breasts. The second image features a closer image of the woman from the waist up, she has one hand on her forehead and there is no writing superimposed on the image so the woman's breasts are visible through the



sheer mesh material. The third image features the woman with her left arm across her body and her right hand near her face, she is biting her index finger. She is looking towards her left. The fourth image is similar but the woman is gazing downwards. In the fifth image the woman's right hand is shielding her face and the woman is pictured from just below her breasts upwards. And in the fifth image the woman's hands are framing her face with her fingers resting on her temples and she is looking directly ahead. The image is framed from the bottom of the woman's breasts upwards. The words "RED ALERT" appear on the screen and the final image reappears with the black 'CENSORHIP' bar across the woman's breasts. The word 'Alina!' is written across the screen.

The Panel considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: "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 complainant's concern that the advertisement depicts the woman's body as the subject of the advertisement, rather than the product.

The Panel noted the advertiser's response that the woman is not sexually objectified, she is a lingerie model who is confident and empowered.

The Panel noted that the advertised product is lingerie and the advertiser is justified in showing the product and how it would be worn provided that in doing so it meets the provisions of the Code.

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.

The Panel first considered whether the advertisement used sexual appeal.

The Panel considered that the depiction of a women in sheer lingerie is a depiction which most people would consider to contain sexual appeal.

The Panel then considered whether the advertisement used sexual appeal in a manner that was exploitative of an individual or group of people.

The Panel considered that the woman was depicted in a confident and controlled manner and that her depiction in lingerie was relevant to the product being sold. The



Panel considered that the woman was not depicted in a vulnerable position and was not depicted as an object or commodity. The Panel considered that there was no focus on a part of the woman's body that was not directly relevant to the product being promoted.

The Panel then considered whether the advertisement used sexual appeal in a manner that was degrading of an individual or group of people.

The Panel considered that the depiction of the model and the accompanying text did not lower the character or quality of the model and did not use sexual appeal in a manner that was degrading of the model.

On that basis, the Panel determined that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of an individual and did not breach Section 2.2 of the Code.

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 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 noted the complainants' concerns that the advertisement featured highly sexually suggestive images which resemble porn.

The Panel considered whether the images 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 a woman in revealing lingerie is not of itself a depiction of sexual intercourse, sexual stimulation or suggestive behaviour and that the advertisement as a whole did not contain sex.

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 style of lingerie being promoted was sexualised and that this did add an element of sexuality to the advertisement. 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 determined that the advertisement did contain sexuality

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 suggestion 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 and service 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 be broad and would include children.

The Panel considered that in the first image in the sequence the woman is shown with her hands on her hips staring at the camera in a confident manner. The Panel considered that the writing on the image did not make a sexual reference.

The Panel considered that in the second image the woman is depicted with one hand on her forehead and the woman's breasts and nipples are clearly visible through her lingerie. The Panel considered that the woman was not depicted in a sexualised pose.

The Panel considered that in the third image the woman is posed with her finger in her mouth, looking off to the side. The Panel considered that the depiction of the



woman biting down on her finger is a sexually suggestive pose combined with partial nudity and sexualised lingerie.

The Panel considered that in the fourth image the woman is posed in a similar manner to the third, with her finger in her mouth. The Panel considered the depiction of the woman with her finger in her mouth was a sexually suggestive pose, combined with partial nudity and sexualised lingerie.

The Panel considered that in the fifth image the woman is posed with one hand shielding her face, as though from a bright light. The Panel considered that the woman was not depicted in a sexualised pose.

The Panel considered the final image of the woman features a closeup image of her face and breasts. The Panel considered the woman is posed with her hands on either side of her face and her fingers resting on her temples, and that this was not a sexualised pose. The Panel considered that the text that appears over this image did not make a sexual reference.

The Panel noted that the entire advertisement lasted for less than five seconds, and the middle four images appeared only briefly. The Panel considered that the six images would not be seen in isolation, but in the context that they appear to people walking past the store.

The Panel considered that the flashing nature of the images which included a high-level of nudity gave the impression of a peep-show and added to the sexualised feel of the advertisement. The Panel considered that the clear presentation of nudity in the advertisement and the sexualised nature in the way the images were presented in the quick succession edit combined to create marketing content that did not treat the issue of sexuality with sensitivity to the relevant audience.

The Panel noted the complainants' concern that the woman's nipples are visible and that this is a level of nudity which is inappropriate for a public space where children could view the advertisement.

The Panel noted the advertiser's response questioning why the female nipple is sexualised when the male nipple is not.

The Panel also noted that the purpose of the advertising campaign, as well as to promote the product, was to draw attention to the advertiser's view on the censorship of female bodies, particularly their nipples.

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 firstly contains nudity and secondly treats that nudity with sensitivity to the relevant audience.

The Panel noted that the bralette worn by the model in the advertisement was sheer and that her nipples are clearly visible through the fabric in some of the images. 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 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 in the first image in the sequence the woman is shown with her hands on her hips staring at the camera in a confident manner, and that the censorship bar is across the woman's chest so that her breasts and nipples can't be seen.

The Panel considered that in the second, third, fourth and fifth images the woman's breasts and nipples can clearly be seen through the sheer fabric of her lingerie.

The Panel considered the final image of the woman features a closeup image of her face and breasts. The Panel considered that this close-up image emphasised the woman's breasts and nipples. The Panel considered that the image fades to black then reappears with writing covering the woman's breasts.

The Panel noted that the entire advertisement lasted for less than five seconds, and the middle four images appeared only briefly. The Panel considered that the six images would not be seen in isolation, but in the context that they appear to people walking past the store.

The Panel considered that the black 'censorship' bar at the beginning and end of the advertisement draws the attention of the viewer to the woman's breasts. The Panel considered that although the following images were fleeting in nature the woman's nipples were clearly visible and would likely be noticed by members of the community passing the store. Further the Panel considered that the flickering images on the bright coloured background would be more likely to attract the attention of people passing the store than still images. The Panel noted that each successive image presents a closer view of the model and her breast area and this highlighted the level



of nudity presented in the advertisement.

The Panel considered that the depiction of women's nipples does not in itself amount to an unacceptable level of nudity. The Panel noted that it had previously determined that advertisements which featured female nipples in a way which is discreet and not the focus of the advertisement (0543/18, 0134/19, 0157/19, 0174/19), when advertising to a restricted audience (0097/17, 0086/15, 0145/17) or when advertising a non-sexualised product (0290/14, 0103/12, 0276/10) and therefore did treat the issue of nudity with sensitivity to the relevant audience.

In this instance, the Panel considered that the series of fleeting images draw the viewer's eye to the woman's breasts and that her nipples are clearly visible through the sheer fabric.

The Panel considered that a large sector of the community are uncomfortable with images of mostly naked female breasts and prominently visible nipples in the context of a lingerie advertisement able to be seen by a broad audience.

The Panel noted that recent research into community perceptions found that the general community were more conservative than the Panel's determinations relating to sexual imagery and nudity in advertising, and that the level of concern over nudity and sexualised content in advertising has been increasing over the last 10 years (https://adstandards.com.au/sites/default/files/2007-2017_community_perceptions_web.pdf).

The Panel acknowledged the advertiser's viewpoint that woman's nipples should not be sexualised. The Panel considered that most members of the community would still be of the opinion that a woman's breasts and prominent nipples visible through sexualised lingerie in a large advertisement seen by a broad audience is inappropriate. The Panel noted that its role is to reflect community standards, not to set them and that in this instance the prominent focus on the woman's breasts in the advertisement did not treat the issue of nudity with sensitivity to the relevant broad 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. Ad Standards will continue to work with the advertiser and other industry bodies



regarding this issue of non-compliance.