



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0223-20
2. Advertiser :	LNDR
3. Product :	Clothing
4. Type of Advertisement/Media :	Billboard - Digital
5. Date of Determination	22-Jul-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This advertisement is displayed at a bus stop and depicts a woman from the side/behind wearing only sports tights and sneakers. Her arm is held across her breasts. Text on screen states "Buy less, good stuff".

THE COMPLAINT

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

This advertisement is inappropriate for viewing, particularly for children. This bus stop is located outside Kingston State School (P-yr6), and situated on one of the main routes for accessing Groves Christian College (P-yr12) (on Laughlin St with access off Polaris Ave) and Kingston College (yr7-yr12) (on Bega Rd with access off Polaris Ave). Therefore this advertisement is seen by children, parents and teachers of 3 separate schools. Further, this advert is displayed as a flick through advert in which one other ad is displayed. Currently the other ad is a government advert for Coved Safe 'do the 3' (see attached). This ad is important for viewers and so the public are less able to ignore the pop up of the LNDR advert. According to the AANA code for advertising and marketing communications to children, advertising to children (a) must not employ sexual appeal and (b) must not include sexual imagery in contravention of Prevailing Community Standards. Whilst I am unaware what the board of AANA deem a current prevailing community standard in this regard, I feel a topless woman should be included under the list of 'sexual imagery'.



THE ADVERTISER'S RESPONSE

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

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) or the AANA Code for Advertising and Marketing Communications to Children (the Children's Code).

The Panel noted the complainant's concerns that the advertisement is sexualised and is inappropriate for viewing by children which is in breach of the Children's Code.

The Panel viewed the advertisement and noted the advertiser did not provide a response.

The Panel considered whether the advertisement complied with the Children's Code. To fall within this Code, "Advertising or Marketing Communications to Children means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product".

The Panel noted that the term 'Product' is defined in the Children's Code as "goods, services and/or facilities which are targeted toward and have principal appeal to Children."

The Panel noted that the advertised product is adult leggings and considered that this is not a product which is targeted toward and has principal appeal to Children.

Finding that the advertisement were not for Product as defined in the Children's Code, the Panel determined that the provisions of the Children's Code did not apply.

The Panel then 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 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 image was of a female from behind. The Panel considered the woman had one hand on her head and the other in front of her chest. The Panel considered that the woman was not engaging in sexual intercourse, or sexually stimulating or suggestive behaviour. 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 the use of male or female actors in an advertisement is not of itself a depiction of sexuality.

The Panel considered that some members of the community may consider the depiction of a topless woman to be sexualised. However, in this instance the Panel considered that the woman was posed in a sporty manner which highlighted the product for sale and was not posed in a sexually suggestive way. The Panel considered that the text in the advertisement was not sexualised. The Panel considered that the overall impression of the advertisement was to highlight the benefit of the leggings and was not recognising or emphasising sexual matters. The Panel considered that the advertisement did not contain 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 factor when considering whether an advertisement treats nudity with sensitivity to the relevant audience.

The Panel considered that the woman was wearing leggings and runners and that only her bare back and face were visible. The Panel considered that there is an inference that the woman is topless, however the woman's breasts are completely hidden from view. The Panel considered that most members of the community would not consider a woman's exposed back to be nudity, however some members of the community may considered an inference that the woman is topless to constitute partial nudity.

The Panel then considered whether the issue of nudity was 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 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 advertisement appeared on a digital street billboard near a bus stop and the relevant audience would be broad and include children.

The Panel considered that the advertisement was not sexualised, and contained only a suggestion of nudity. The Panel considered that the woman was depicted in a sporty manner to promote fitness leggings. The Panel considered that the implied nudity in the advertisement was not explicit. The Panel considered that the stance of the woman ensured that no part of her torso or breasts were shown. The Panel considered that the image of the woman in leggings was not inappropriate for a broad audience that would include children.

On this basis, the Panel considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience and determined the advertisement did not breach Section 2.4 of the Code.

Finding that the provisions of the Children's Code did not apply and that the advertisement did not breach any other section of the Code, the Panel dismissed the complaint.