



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0228-19
2. Advertiser :	The Palace
3. Product :	Sex Industry
4. Type of Advertisement/Media :	TV - Out of Home
5. Date of Determination	24-Jul-2019
6. DETERMINATION :	Upheld - Pending Response

ISSUES RAISED

AANA Code of Ethics\2.2 Exploitative or Degrading
AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This TV Out of Home advertisement depicts three static images on rotation.

Image 1 - An image bearing the words "Ultimate Bucks Night" shows two women - a blonde woman in a white bikini who's hand is cupping the brunette woman's breast. The brunette woman is wearing a body suit made from fishnet type material.

Image 2 - a woman sitting spread legged with a soccer ball in front of her groin. Text states "Have your function at Ballers".

Image 3 - two women with football scarves covering their nipples.

THE COMPLAINT

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

It is not acceptable that a main arterial street to the city centre of Adelaide, which is accessed by people of all ages, is subjected to these images. The images and video on two screens – one at standing height on Rosina Street and one on Hindley Street.



These images are very imposing to anyone walking by and play sexually objectifying images of women 24 hours a day, 7 days a week on brightly lit high resolution screens. These images are on constant display, even when the venue isn't open.

I live very near to this bar (within 500 metres) – along with other families in my street, and as an active member of the local community and a person with young children, I find these images confronting, offensive, and concerning. I find myself having to modify my route to avoid walking past this place with my children when going to the mall for shopping or the city library. These images are highly sexualised, resemble pornography and are inappropriate for a broad audience. They do not belong on public display for all to see.

As a mother to two young boys, I especially do not want my sons - or anyone else's children - to have to see these highly sexually suggestive images while going about their daily business. I have seen my kids looking at these images as we've walked past – they are easy to see from a pram or while walking on foot from both sides of the street. In fact, many young people are being exposed to these images. I have seen young people undergoing vocational and trade qualifications walk past this establishment when coming from the train station exit on Hindley Street (next to Smokemart) to the city's main TAFE college (they generally walk up Hindley Street on to Rosina Street, where one of the screens are clearly visible). Similarly, young people attending Influences Church opposite TAFE can be seen walking the same route. I note Trinity Church is also nearby, with attendees parking out front of the venue on Sunday mornings. Other young people attend vocational educational courses at Durban International College, located at 128 Hindley Street, across the street. Most of these appear to be international students, many of whom are from conservative countries, and who would find these images highly confronting. Other young people walk past the venue when coming from the train station exit on Hindley Street to Adelaide High School and the University of South Australia (City West). Long gone are the days that Hindley Street was a seedy place frequented only at night by adults. It cannot be said that Hindley Street is merely a night-life district, when it houses an increasing number of homes and many thriving businesses (travel agents, book shops, and new and old cafes and restaurants). Further, this is the main arterial which connects the west end of the city to the mall. The Adelaide City Council have worked hard to improve this area of the city to make it more liveable; something that has worked, with many high rise apartments being established in the north west quarter of the city in recent years, the improvement of the western end of Hindley Street, and not to mention, the new Royal Adelaide Hospital in this part of the city. This progress has also increased facilities for families with children. For some time there was a child care centre - which my first child attended - which fronted nearby on to Hindley Street called the City West Child Care Centre (now located on Waymouth St). My children, along with other children, do swimming nearby at Pridham Hall on Hindley Street. My children and I have also attended events at the Adelaide Symphony Orchestra Grainger Studio, which is around 100 metres from the venue on Hindley Street. The Greater Union cinema, which regularly hosts family events, is across the street from the venue. While my family loves seeing movies, I must admit I consciously often decide to go elsewhere in an effort to protect my children from having to see the unavoidable images displayed



by this venue. Why should I feel I can't access areas of my own neighbourhood out of a need to prevent myself and my children from seeing sexually explicit material?

In this instance we are not just talking about sexualised media, but pornographic images. I note that the video displayed at street level on Rosina Street shows a number of offensive images, but of particular concern is that one woman's nipples are clearly visible. One woman is seen holding another woman's breast while the woman being touched appears to stroke her groin. This image of two women having an intimate encounter for the enjoyment of men is offensive to the LGBTIQ community and their supporters. It is exploitative and degrading for women in same sex relationships – but also sends harmful messages to heterosexual young women that performing sexual acts on other women for the enjoyment of men is acceptable. These messages in advertising can also put women at risk, as evidence by two women who were recently beaten by men for refusing to kiss for their entertainment (<https://www.newsweek.com/homophobic-attack-london-bus-pride-month-1442723>).

One image of two topless women has football scarves used to cover their nipples while the majority of their breasts are visible. Another image has a woman sitting legs spread and a soccer ball in front of her groin. These images sexually objectify women in sports, which is already a struggle for our society.

The video's of women performing in lingerie - presumably taken inside the venue - for an audience over 18 years of age are inappropriate for public viewing. These images are sexually stimulating and sexually suggestive, as per the dictionary definition of sex, making them inappropriate for public display. These videos depict women as a 'product' for the gratification of men. This type of advertising degrades women, who should be treated as equals, respected and treated with dignity.

As a society we know that sexualised media – and in this case pornographic images - has harmful effects on all people but especially women and young people. Recent research provides consistent evidence that both laboratory exposure and regular, everyday exposure to this content are directly associated with a range of consequences, including higher levels of body dissatisfaction, greater self-objectification, greater support of sexist beliefs and of adversarial sexual beliefs, and greater tolerance of sexual violence toward women (<http://www.tandfonline.com/doi/full/10.1080/00224499.2016.1142496>). Research supports that images like these shown by the venue create an unrealistic view of women which can be very damaging to a person and their relationships. Moreover, experimental exposure to this content leads both women and men to have a diminished view of women's competence, morality, and humanity. This is because sexually objectifying portrayals of women in advertising and popular culture sends a message to girls and women that their sexual value is all they are, rather than a human being with a personality, feelings, needs, dignity and rights.

These images also contribute to gender inequality which provides the underlying social conditions for violence against women. It operates at many levels – from social and cultural norms (the dominant ideas about men and women in a society), to economic



structures (such as the pay gap between men and women), to organisational, community, family and relationship practices. Violence against women is based upon a foundation of unequal power between men and women, something that has been embedded historically in our society and in our relationships; an imbalance which is most prevalent today in how women are represented in advertising. To overthrow the epidemic of violence in our community we must start at the very beginning by examining the long-standing practice of selling women's bodies and take steps to remove inequality.

Our young people are suffering rising rates of depression, anxiety, eating disorders, self-harm, and body hatred. Statistics show that 58% of girls receive uninvited sexually explicit material (texts, video clips, pornography), 70% are harassed online. Sexualisation, objectification and a deluge of pornography are major drivers of these negative physical and mental health outcomes. There is a wealth of research documenting the damaging impact of pornography on the attitudes and sexual practices of young people, including a massive increase in children as young as five entering treatment programs for sexually abusive behaviors, and child on child sexual assaults that have quadrupled in the last few years. At a cost to the Australian community, we've just had a Government Inquiry into the harms of pornography exposure to children. Pornography has become a public health crisis yet little seems to be being done to protect the community from its harmful effects. There are genuine community and government concerns about sexting and cyber safety and advertising directed at young people seen to encourage or normalise this behaviour. How can exposing young people to these images not normalise pornography and the objectification of women's bodies and thereby encourage these unsafe behaviours?

I note that my feelings of the inappropriate nature of this kind of advertising by venues like this are shared by others, as demonstrated by a recent newspaper article: <https://www.abc.net.au/news/2019-01-21/mp-complains-about-ad-near-south-australian-parliament/10732058>). This article describes a prominent member of the community, a South Australian politician, complaining that the advertising by another nearby adult entertainment establishment are "trashy and exploitive soft porn". The former Today Tonight journalist said the video of women in suggestive poses were not only "crude, rude and offensive" but "totally inappropriate" and "demeaning to women".

It's time to protect children and young people from exposure to graphic, harmful pornography and prioritise their well-being above the profits of bars like this. Establishments like this may exist as long as there are consumers willing to pay for what they are selling, but the rest of the community does not need to suffer these images and their harmful effects. Consumers who frequent these establishments know they exist and may seek them out. These kinds of images should only be shown to consumers inside the establishment, who are over 18 years of age and are a willing party to paying for the objectification of women.

THE ADVERTISER'S RESPONSE



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

The way our marketing display is scheduled is that our still images (as attached) are on rotation 24hrs but our videos are only displayed between 9pm and 5am. This is done as we do in fact have our community in mind and are quite aware that there are younger people around during the day, and while I do not believe that anything we display is out of place, we do try to accommodate those in the community who are less open to present day life than we are.

There are a lot of assumptions made in the complaint and she purports to speak on behalf of a lot of people, none of which have claimed to join the complaint or have made previous complaints about our imagery. We have been at this location displaying material of various mediums for over 17 years. In that time we have always taken the community into consideration and this complaint is only the 2nd in that time which in itself represents that we are doing that. If people in Church groups, residents, or any other city users have issues with our advertisements, it is within their capabilities to make a complaint either to us direct or to you as the industry body, or the Council. That has not occurred leading me to believe that many of the comments by the complainant are those made by her representing her beliefs alone which may be more skewed than the community as a whole she believes she belongs to.

In regards to the 3 still pictures the complainant refers to, there is no sound or written text directing the general public to the ways to treat the models or women in general and therefore any generalisations about the content come from a place of the viewers own prejudice that is projected in the way the content is viewed, not from the content itself. In all cases the advertising references the event, not the women as the product - Section 2.2. The images are attached to this email.

In the videos we were displaying the women are laughing, playing and enjoying themselves rather than making sexually descriptive facial expressions. The models dance in the videos rather than perform sexual acts. There are many dance styles in popular culture, Salsa, Modern Jazz and Ballroom that incorporate these moves with out being considered sexually offensive, adult or pornographic. However, as a result of the complaint and the comments contained within I have viewed all footage again to try and observe from the perspective of the complainant. Although when viewing the complete video I do not agree that they are out of place or provide the content as suggested by the complaint, I do concede that if only portions of the footage were observed as somebody was walking by they could be viewed out of context. For this reason I have instructed all videos to be taken down so that does not occur. As they were for a specific upcoming event at the end of July we would not be in a position to re-work them in time so they will not be used again and we will keep in mind the possibility of viewers seeing portions out of context for future videos that may be created.



The models in all of our marketing are more than 'women' as continuously mentioned in the complaint, they are people, and it's actually individuals like the complainant who are diluting the power of one gender and degrading humans by repeatedly assuming and making hasty generalisations that the models don't have the intelligence or capabilities to understand how they are portraying themselves or that there is only one way for people to behave and be viewed just because they are appearing in art work for a strip club. Just because the models may dance and dress in provocative manner does not indicate that they are inviting or perpetuating violence against women, gender inequality, self harm and depression and any other version of that reality is the equivalent of victim blaming.

"It weakens the credibility of women, women's rights and women's movement's in the general public when it's suggested that we are all sensitive, vulnerable, non sexual, straight creatures. We are not broadcasting sexuality but a downplayed version of the entertainment the women engage in, edited in a way that's similar to music video clip rather than pornography. Strength does not come from giving a community only one course of action or one option but rather giving them all the options and allowing them to make the right decisions for themselves." - a comment from Talia Manuel our marketing manager.

People of both sexes enjoy coming to our venue and enjoy our offerings and this is indicated by the percentage breakdowns of our social media audience and the patronage we track.

There is nothing in these images you wouldn't see at the beach, on Bonds advertising in your supermarket or on shop fronts in Rundle Mall from Bras + Things. Please note the attached document which shows images of people taken at family locations such as beaches, pharmacies and supermarkets.

If you require any further information or wish to discuss any of the above please do not hesitate to contact me.

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 features images which are highly sexualised resemble pornography and are inappropriate for a broad audience, and which are exploitative and degrading of women in the LGTBIQ community and women in sports.

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

The Panel noted that this out of home TV advertisement originally contained a series of videos and still images. The Panel noted the advertiser's response that all video



images subject to the complaint had been removed. The Panel considered the remaining three still images.

Image One features an image of two women, one in a black fishnet bodysuit and one in a white bikini. The women are laughing and the woman in the white bikini has one hand touching her own breast, and the other touching the other woman's breast. The other woman has one hand behind her head and one between her legs. The text 'Ultimate Bucks Night' and details of special offers are next to the image.

Image Two features a woman wearing a white crop top with the Ballers logo and long black socks. She is sitting on the ground with her legs spread apart, her hand resting on a soccer ball which is sitting between her legs. The text 'Have your function at Ballers' and details of the venue are next to the image.

Image Three features two topless women holding football scarves across their chests, so that the tops of their breasts aren't visible. The text "Ball Play, 2 girl show" is next to the image with show details.

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 first image is exploitative and degrading of women in same-sex relationships, and that the second and third images sexually objectify women in sports.

The Panel noted the advertiser's response that in all cases the text references the events, not the women, as the product.

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 women in lingerie and revealing clothing in connection to a gentleman's club is one 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 noted that this is a legal business and although people may dislike the fact that women in the business are paid for adult entertainment services, this does not mean that the advertisement is exploitative.

The Panel considered that there was a focus on the women's bodies in the advertisement, however noted that the advertised product is a gentleman's club which features scantily clad women as part of its service. The Panel considered that the images used in the advertisement are clearly related to the product being advertised.

The Panel considered that the advertisement depicted the women as confident, in control and acting in the course of their employment, and did not otherwise suggest the women were objects.

The Panel considered that the advertisement did not use sexual appeal in a manner that was exploitative of an individual or group of people.

The Panel then considered whether the advertisement used sexual appeal in a degrading manner.

The Panel considered that in the first image the women are depicted as smiling, happy and in control. The Panel considered that while the women were in an intimate pose, they were depicted as laughing and enjoying themselves and were not depicted in a way which lowers the women, or LGBTQI people generally, in character or quality.

The Panel considered that the second and third images depicted the women as confident and in control. The Panel considered the women were posed with sporting paraphernalia as it was directly relevant to the sports theme of the venue and the events promoted, and that the women were not representative of female sports players. The Panel considered that the advertisement did not depict the women in a way which lowered them in character or quality.

The Panel considered that the advertisement did not use sexual appeal in a degrading manner.

The Panel determined that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people, 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 noted the complainant's concern that features images which are highly sexualised resemble pornography and are inappropriate for a broad audience, and that exposure to highly sexualised imagery has been linked to higher levels of body



dissatisfaction, greater self-objectification, greater support of sexist beliefs and greater tolerance of sexual violence towards women.

The Panel noted the advertiser's response that they have been in the location for 17 years and have only received two complaints from the community in that time. The Panel further noted the advertiser's response that because models dress in a provocative manner it does not mean that they are inviting or perpetuating violence against women, gender inequality, self-harm and depression, and that there is nothing in these images that you wouldn't see at the beach, or in other advertising at the mall.

The Panel acknowledged the complainant's concerns that continuous exposure to sexualised imagery may have long-term effects on those viewing the advertisements. The Panel noted that its role is to consider advertisements on an individual basis against the provisions of the Code, and that the effect of continuous exposure to different advertisements is not in the scope of considering individual advertisements.

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 considered whether the image 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 image one depicted a woman with her hand between her legs as though she is touching herself, and that another woman was depicted as touching her breast. The Panel considered that the image did contain sexually stimulating or suggestive behaviour and as such could be seen to be a depiction of sex.

The Panel considered that the depiction of women in revealing outfits in Images Two and Image Three is not a depiction of sexual intercourse, sexual stimulation or suggestive behaviour. The Panel considered that Images Two and Three did not feature or allude to sex.

The Panel considered whether the advertisement featured 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 Image One features two women in an intimate pose, with one of the women touching herself between her legs. The Panel considered that this is a depiction of sexuality.

The Panel considered that the depiction of the woman in Image Two wearing no pants, with her legs spread apart and her groin covered by a soccer ball is a depiction of sexuality.

The Panel considered that the depiction of the two women holding scarves over their breasts in image two, along with the words 'ball play' is a depiction of sexuality.

The Panel then considered whether the advertisement featured 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 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 noted that in Image One the women are appropriately covered with a bikini and body suit and that their genitals are covered. The Panel considered that the woman wearing a bikini had a large amount of her cleavage exposed and that the material the bodysuit the other woman was wearing appeared to be see-through, and considered that this was partial nudity.

The Panel noted that in Image Two the woman's breasts were appropriately covered by a crop top, however she was not wearing pants and it is unclear if she is wearing underwear. The Panel considered that the soccer ball covered her genitals, and that this image did not contain nudity.

The Panel noted that the two women in Image Three appeared to be topless and were covering the top half of their breasts with scarves and their hands. The Panel considered that the bottom of their breasts were visible and that this would constitute partial nudity.

The Panel considered whether the advertisement treated the issue of sex, sexuality and nudity with sensitivity to the relevant audience.

The Panel considered that the depiction of the women was relevant to the business's services being promoted. The Panel considered that although it is reasonable for an



advertiser to depict the services 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 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 suggestions 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 on an electronic sign on the street. The Panel noted the advertiser's response that the still images are on display 24 hours a day. The Panel considered that the relevant audience includes workers, people walking to the businesses and people who are not going to the business but who are walking past, and that this last group would include children.

The Panel considered that in Image One the women's breasts and genitals were appropriately covered by their outfits and that the image did not contain a level of nudity which would be considered inappropriate by the relevant audience. The Panel considered that the women's happy laughing expressions lessened the sexual impact, however the depiction of the woman with her hand between her legs was still highly sexually suggestive.

The Panel considered that Image One was highly sexually suggestive, and that many members of the community, including those who would view this advertisement, would find it confronting for an advertisement to feature imagery with such a high level of sex and sexuality.

The Panel considered that Image One did not treat the issue of sex and sexuality with sensitivity to the relevant audience.

The Panel considered that Image Two did not contain sex or nudity, and that the depiction of the woman with her legs spread was sexually suggestive. The Panel considered that many members of the community would not find the level of sexuality in the advertisement to be confronting or inappropriate. The Panel considered that Image Two did treat the issue of sexuality with sensitivity to the relevant audience.

A minority of the Panel considered that the level of nudity in Image Three, combined with the words 'ball play' did amount to a level of nudity and sexuality which the relevant audience would find confronting.



The majority of the Panel considered that while Image Three did contain nudity, the woman's nipples were covered and the focus of the image was not on the woman's exposed breasts. The majority Panel considered that the still image was quite dark and would not attract the attention of many people passing the venue. The majority of the Panel considered the words 'Ball Play' was the name of the show and relevant to the sports theme of the show and the Ballers venue and was not obviously or directly mentioning a sex act. The majority of the Panel considered that Image Three did treat the issue of sexuality and nudity with sensitivity to the relevant audience.

The Panel determined that Image One of 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

We confirm receipt of the determination of the panel and in most instances are pleased with the findings.

In the one instance where the panel found Image One to be highly sexually suggestive we disagree with that determination and note that there are many images displayed as advertising images that show either a male or female's hand/s between their legs. In our image the model was fully dressed, standing up and clearly not engaging in any sexual activity with the other model in the image. The location of the shoot was not in a bedroom or other environment that would add to the suggestion of sexual behaviour. Finally as noted by the panel the smiles and expressions of the models are clearly happy, laughing and lighthearted which again would suggest against any activity or portrayal of being sexual in nature.

In any event we note that both the opinions and perspectives of the panel, as well as our own, are just that - opinions, and in the spirit of potential community disharmony we have cropped the image in dispute so that it is no longer possible to see that the hand of the model is between her legs.

