



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0232-22
2. Advertiser :	Cotton On
3. Product :	Toiletries
4. Type of Advertisement/Media :	Internet
5. Date of Determination	12-Oct-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This internet advertisement has three images.

Image 1 depicts the torso and buttocks of a naked woman who is washing herself.

Image 2 depicts an apparently naked person who is sitting with their knees to their chest. They are visible from their lower stomach to their shoulders.

Image 3 depicts a close up of a person holding a bar of soap against their hip.

THE COMPLAINT

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

I am offended when shopping online for gifts on a site that I feel should be clean of an exposed private body parts to see images that my younger children should not be able to see.

THE ADVERTISER'S RESPONSE

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

The complainant alleges that the Advertisement breaches section 2.4 of the Code, which requires advertising to treat sex, sexuality, and nudity with sensitivity. Cotton On strongly rejects that the Advertisement breaches this obligation.



Cotton On Foundation ('Foundation') is a registered charity operated by the Cotton On Group. Founded in 2007, the Foundation donates 100% of proceeds made from charity products sold online and in stores. The Foundation has contributed over \$120M AUD to help support health, wellbeing and education of individuals by partnering with communities in Uganda, South Africa, Thailand and Australia.

Nice One body wash ('Product') forms part of the latest range of goods available for sale by the Foundation. The Product falls within a collection of bathroom essentials for Body, Hair and Baby, with products sold including: handwash, hand lotion, body wash, shampoo and conditioner. Nice One products are Australian-made and use natural extracts and oils to help naturally nourish the skin. The Product is not tested on animals and is vegan friendly. This range targets Cotton On Group's core customer base of 17-35 years of age. Given the young target audience and product type, the imagery used on the website is designed to feel personal, as the Product is a personal-care item.

The Advertisement, which appears on the product page of the Foundation sub-section of the Cotton On website, depicts models using the body wash product. The complainant alleges that they are "offended by exposed private body parts". The Advertisement displays the model lathering the body wash on her skin, demonstrating real-life use of the Product in a modest and tasteful way. The Advertisement is cropped, displaying a side profile of the model from the bottom of the bust to the upper thigh area. There is no depiction of any sensitive body parts, including nipples or the vulva. The complainant also alleges they "feel [their] younger children should not be able to see" images similar to the Advertisement on a website. As mentioned, Cotton On Group's target audience aligns with an individual aged between 17-35. The Product is listed under the 'Cotton On Foundation' section of the website and is not linked in any way to the Cotton On Kids arm of the business. Regardless, the website does not involve any sort of entertainment or game functionality that would entice children to shop on the platform. This subsection of the website is designed to be frequented by a young adult wishing to buy a gift for themselves or their friends and family.

The talent photography used in the campaign shows bodies in a dynamic way, without recognisable faces. This was utilised by the team to demonstrate texture, feel and real-life use of the Product. Given that the Product is sold online, the imagery used was designed to help customers understand product use and the consistency they can expect when purchasing. This is wholly appropriate for the Product. There is nothing sexualised or exploitative in the imagery. Importantly, the sequence of product images on the Nice One category of the Cotton On website was deliberately varied in product and model shots, so not all photos display skin. This was utilised to create a dynamic shopping experience. The product is therefore displayed in a functional and pragmatic way (see Appendix A). Additionally, the way in which the function of each product is portrayed on the website is relevant to each good. The Product is advertised in a way to showcase the body wash being utilised on the skin through its intended purpose. Similarly, the hand wash functionality is shown by the model lathering the product between her two hands.



Furthermore, the Advertisement does not match the 'overtly sexual' description outlined in the AANA Guide to Sexual Imagery in Advertising, noting:

1. There are no sexual poses utilised. The model is standing side on, showing the functional use of the Product;
2. There is no suggestive undressing by the model. The model cannot be expected to wear clothing while showering and using a body wash;
3. There is no use of paraphernalia in the Advertisement; and
4. To allow our customers to accurately see how the body wash lathers on the skin, it is necessary for the model to be depicted using the product. This is a stark contrast to any gratuitous body displays in advertisements for products that are not personal care.

Cotton On confirms the Advertisement does not breach any other sections of the Code.

- Section 2.1 provides that advertising shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual orientation, religion, disability, mental illness, or political belief. Foundation celebrates diversity in skin tone, body shapes and age. The use of models within the campaign featured women, men and babies all of different size, shape and colour to ensure all demographics of our target audience feel included by the product. This Advertisement does not and was not intended to discriminate against any sort of person, including females.
- Section 2.2 provides that advertising shall not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people. Again, Foundation encourages all individuals to be their best selves, regardless of gender. This Advertisement merely depicts the model displaying real use of the product and having fun while she does so. After consultation with the creative director of the campaign, it was revealed the models involved in the photoshoot expressed they had never felt so comfortable and empowered on a job before. There is no exploitation or degrading imagery portrayed.
- Section 2.3 of the Code requires advertising to not present or portray violence unless it is justifiable in the context of the product or service advertised. Again, there is no possibility for this Advertisement to be considered as 'violent'.
- The Foundation also considers the remaining sections of the Code to have no application to the Advertisement.

In summary, we are firmly of the view that the Advertisement falls well within acceptable community standards and does not breach the Code. As such, we request the complaint be dismissed.

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 concerns that the advertisement is inappropriate to be displayed where children can view it.



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

Section 2.4: Advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code states:

"Overtly sexual images are not appropriate in outdoor advertising or shop front windows.

"Although not exhaustive, the following may be considered to be overtly sexual:

- *Poses suggestive of sexual position: parting of legs, hand placed on or near genitals in a manner which draws attention to the region;*
- *People depicted in sheer lingerie or clothing where a large amount of buttocks, female breasts, pubic mound or genital regions can be seen; The use of paraphernalia such as whips and handcuffs, particularly in combination with images of people in lingerie, undressed or in poses suggestive of sexual position;*
- *Suggestive undressing, such as pulling down a bra strap or underpants; or*
- *Interaction between two or more people which is highly suggestive of sexualised activity.*

"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 depicted people washing and sexual activity. The Panel considered that the advertisement did not suggest or depict 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 the advertisement featured close-up shots of naked bodies and that that could be considered to constitute 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 depicted three images of people washing without clothing, and that this was a depiction of nudity.

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 this image appears on the Cotton On website, and although the website does sell children’s clothing, the likely audience would be adults shopping online and not children.

The Panel noted that in all three images there were no nipples or genitals visible. The Panel considered that the images were not overtly sexual. The Panel considered that the depiction of people using products and washing themselves was relevant to the promotion of toiletries products.

The Panel considered that the level of sexuality and nudity in the advertisement was appropriate for the relevant, mostly adult, audience.



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.