



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

1. Case Number :	0238-19
2. Advertiser :	Honey Birdette
3. Product :	Lingerie
4. Type of Advertisement/Media :	TV - Out of Home
5. Date of Determination	24-Jul-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

TV OOH advertisement which features a fast moving video montage of still images of a woman in lingerie. The lingerie is a Belinda body suit which has sheer fabric between leather straps.

The still images are:

- An image of the woman from the chest up with one hand at her forehead looking down.
- An image of the woman from the chest up with one hand at her neck looking at the camera.
- An image of the woman from the chest up looking at the camera.
- An image of the woman from the chest up with one hand at her neck looking at the camera, again.
- An image of the woman from the chest up looking down.
- An image of the woman from the chest up looking at the camera. Over the top of the image are the words 'RED ALERT' and the text 'Belinda' appears. A "Censorship" label is across the bottom of the image.



THE COMPLAINT

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

Image featured in series of still shots rotated and displayed on a digital screen in the shop window. Image is an extreme close up of woman's face and breasts. Woman is wearing something made of sheer, navy coloured fabric. There is no product name and no other text in the image.

With no product name or text, this image is identical to the type featured in porn-style publications. The image is highly sexualised and sexually objectifying. With a hyper-focus on bare breasts, woman is reduced to body parts. The image does not belong on public display for all-age viewing by a non-consenting audience who are not the advertiser's customers.

THE ADVERTISER'S RESPONSE

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

The Belinda collection is actually a fully covering padded cup collection. So not 'sheer'

I cannot even begin to understand how not having the Belinda name on it (which it does btw. If you need reference happy to provide. As in all our campaign advertising we always feature the name of the collection - it's been part of our strategy for thirteen years). However if didn't feature the 'name' of the collection how is this like 'porn'?

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 complainant's concerns that the advertisement:

- features sheer material so that there is a focus on bare breasts
- does not feature text or a product name and is identical to porn style images
- sexually objectifies the woman
- is inappropriate to be seen in full view of children

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 mesh bodysuit with leather straps. The first image features the woman from the chest up with one hand at her forehead looking down. The second image features the woman with one hand at her neck looking at the camera. The third image features woman from the chest up looking at the camera. The fourth image features the woman with her hand near her neck looking at the camera. In the fifth image the woman is looking down. And in the sixth image the woman is depicted from the chest up looking at the camera. Over the top of the image are the words 'RED ALERT' and the text 'Belinda' appears. The words "In 2019 women are still facing censorship" are written on a black bar across the bottom of the image.

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 does not feature a product name or text in the image and is sexually objectified

The Panel noted the advertiser's response that the advertising does feature the name of the product.

The Panel noted that while the first five images do not feature the product name, the final image does and this is the image which remains on the screen for the longest.

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 complainant's concerns that the advertisement featured highly sexually suggestive images which resemble porn and which were inappropriate to be seen by children.

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 noted that the entire advertisement lasted for less than six seconds, and the first five 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 may give the impression of a peep-show and added to the sexualised feel of the advertisement, however there was no focus on nudity or the woman's body and the overall impression of the advertisement was not strongly sexualised. The Panel considered that the woman in the advertisement was not posed in a sexualised manner and that the wording on the advertisement was not sexual. The Panel considered that while the flashing images may attract the attention of children and people walking past the store, the images



themselves were not overtly sexual. The Panel considered that the advertisement did treat the issue of sexuality with sensitivity to the relevant audience.

The Panel noted the complainants' concern that the sheer material meant that there is a hyper focus on the woman's bare breasts that this is a level of nudity which is inappropriate for a public space where children could view the advertisement.

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 bodysuit worn by the model in the advertisement was sheer and that her nipples are visible through the fabric in 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, second, third, fourth and fifth images the woman's breasts and nipples can be seen through the sheer fabric of her lingerie, however considered that the woman's nipples appeared to have been pixelated.

The Panel considered the final image the text over the image covers the woman's breasts so that her nipples cannot be seen.

The Panel noted that the entire advertisement lasted for less than six seconds, and the first five images appeared only briefly with the final image on screen for over four seconds. 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 first five images were fleeting in nature. The Panel considered that the woman was depicted from her breasts to her forehead and that the framing of the advertisement and lighting meant that the woman's cleavage, rather than her nipples, is the focus point of 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.

The Panel considered that a large sector of the community are uncomfortable with images of mostly naked female breasts however the Panel considered that the brief display of the woman's nipples were not the focus of the advertisement and were partially obscured by pixelation and were not the focus of the advertisement. The Panel considered that most members of the community would not find the level of nudity in the advertisement confronting or inappropriate in the context of advertising a mesh bodysuit.

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.

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