



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
ACN 084 452 666

## Case Report

<b>1. Case Number :</b>	<b>0256-19</b>
<b>2. Advertiser :</b>	<b>SOJO Pty Ltd</b>
<b>3. Product :</b>	<b>Lingerie</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Free to Air</b>
<b>5. Date of Determination</b>	<b>21-Aug-2019</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity  
AANA Code of Ethics\2.2 Exploitative or Degrading  
AANA Code of Ethics\2.2 Exploitative or Degrading  
AANA Code of Ethics\2.5 Language

### DESCRIPTION OF ADVERTISEMENT

There are three versions of this television advertisement for Tradies underwear.

Version 1 features former rugby player Nick Cummins in the desert wearing Tradie's underwear. He holds and cracks a whip. He says, "G'day. Let's celebrate what makes this a cracking country.

Aerial skier Danielle Scott is depicted wearing a pink bra and briefs on the beach saying, "introducing the new Aussie fit from tradie. Aussie born and raised, internationally appraised. Oozing style and class, with a cheeky little...fit" As she finishes speaking she turns to show the back of her underwear.

Rugby sevens player Charlotte Caslick is depicted in a blue bra and underwear saying, "It's time to ditch your Brazilian briefs, French knickers and American panties and Tradie up to something better. The Aussie fit from Tradie. Ausstiest undies ever.

Danielle Scott s then shown and says, "look good down under with Tradie."

Version 2 features rugby sevens player Charlotte Caslick in a blue bra and underwear saying, "check out the new Aussie fit from Tradie. Down under we do things a little



different. We're a whole lot of true blue and a little bit of how do you do." As she finishes speaking she turns to show the back of her underwear.

Version 3 features aerial skier Danielle Scott on the beach wearing a pink bra and briefs. She says, "introducing the new Aussie fit from tradie. Aussie born and raised, internationally appraised. Oozing style and class, with a cheeky little...fit" As she finishes speaking she turns to show the back of her underwear. She continues "It's time to Tradie up to something better. Look good down under with Tradie."

### **THE COMPLAINT**

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

*Rude, chick turns to offer her bum.*

*It's 4pm in the afternoon we don't need to see women parading around in their underwear making sexual innuendos*

*Shows bum cheek hanging from underpants and smiles provocatively at camera. my children are asking why she is being rude and showing her 'bits':  
Doesn't need to be promiscuous and sexually driven. Put a normal woman there. Not some wanna be influencer show off.*

### **THE ADVERTISER'S RESPONSE**

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

*As an advertiser we have no intention of offending the viewing public. In fact our aim is to entertain and leave the viewer with a smile using Australian humour and the "larrikinisms" which our ambassador Nick 'Honey Badger' Cummins in particular is well known and loved for by Australians. In saying this we will never make every member of the general public happy or comfortable with his persona and profile.*

*For the general information of the standards board our target audience is:*

*Primary: Mum's who do the underwear purchasing for their families. We want them to see the brand as a great Australian brand for their families which is comfortable, good quality and fun.*

*Secondary; Australian families – in particular the Dad's and teenagers of Aussie families who need to relate to the brand as something they would wear.*



*Please note we've made the same type of humorous adverts for the past 4 years and we have had no issues. Past adverts include;*

*Year 1 Advert*

*<https://www.youtube.com/watch?v=TZJU1YfLtHI>*

*Year 2 Advert*

*[https://www.youtube.com/watch?v=\\_le7yQ5I8UI](https://www.youtube.com/watch?v=_le7yQ5I8UI)*

*Year 3 Advert*

*<https://www.youtube.com/watch?v=zsfxk-XeBWQ>*

*<https://www.youtube.com/watch?v=fN7S4PLQZC0>*

*Our advertising script go through testing with target audience as part of our script writing process. Once produced to ensure that our TVCs hit the mark our advertising agency holds qualitative research to get feedback on the response of the ads. In fact in a recent research group in Sydney several attendees discussed the likability of the ads and demonstrated that they were wearing the underwear during the session - as an advertiser this was extremely pleasing to see how we were positively penetrating the market. We have received virtually hundreds of posts and feedback on the likability of our ads and the character of Nick Cummins, Danielle Scott and Charlotte Caslick.*

*I hope the Ad Standard review finds in the positive for our advertising and I look forward to your correspondence*

## **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 is rude, is sexually driven, contains a sexual innuendo and depicts women's bodies inappropriately.

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

The Panel noted that this television advertisement has three versions:

Version 1 features former rugby player Nick Cummins in the desert wearing Tradie's underwear. He holds and cracks a whip. He says, "G'day. Let's celebrate what makes this a cracking country. Aerial skier Danielle Scott is depicted in a pink bra and briefs on the beach saying, "introducing the new Aussie fit from tradie. Aussie born and raised, internationally appraised. Oozing style and class, with a cheeky little...fit" As she finishes speaking she turns to show the back of her underwear. Rugby sevens player Charlotte Caslick in depicted in a blue bra and underwear saying, "It's time to ditch your Brazilian briefs, French knickers and American panties and Tradie up to something better. The Aussie fit from Tradie. Ausiest undies ever. Danielle Scott is then shown and says, "look good down under with Tradie."



Version 2 features rugby sevens player Charlotte Caslick in a blue bra and underwear saying, "check out the new Aussie fit from Tradie. Down under we do things a little different. We're a whole lot of true blue and a little bit of how do you do." As she finishes speaking she turns to show the back of her underwear.

Version 3 features aerial skier Danielle Scott on the beach wearing a pink bra and briefs. She says, "introducing the new Aussie fit from tradie. Aussie born and raised, internationally appraised. Oozing style and class, with a cheeky little...fit" As she finishes speaking she turns to show the back of her underwear. She continues "It's time to Tradie up to something better. Look good down under with Tradie."

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 that the advertised product is underwear 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 underwear 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 women were depicted in a confident manner and that their depiction in underwear was relevant to the product being sold. The Panel considered that the women were not depicted in a vulnerable position and were themselves talking about the qualities of the product and were not depicted as an object or commodity. The Panel considered that there was no focus on a part of the women'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 models did not lower the character or quality of the model and did not use sexual appeal in a manner that was degrading of the models.

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 is rude, is sexually driven, contains a sexual innuendo and depicts women’s bodies inappropriately, specifically showing their buttocks and “bits”.

The Panel considered whether the advertisement 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 men and women in underwear 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 underwear being promoted was not inherently sexualised, but considered that some members of the community may consider any advertisement featuring people in underwear to be sexualised.

The Panel considered that the depiction of the man and women wearing this style of underwear 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 the advertisement received a W rating by ClearAds and was aired at a time appropriate to the rating (<https://www.clearads.com.au/storage/final-clearads-handbook-version-ca12.pdf>). The Panel considered that the relevant audience for this advertisement would likely be broad and include children.

The Panel considered that there was no focus on nudity or the women's body and the overall impression of the advertisement was not strongly sexualised. The Panel considered that the women in the advertisement were not posed in a sexualised manner. The Panel considered that while the advertisement may be viewed by a broad audience including children, the images themselves were not overtly sexual. The Panel considered that the advertisement did treat the issue of sexuality in regards to the imagery of the advertisement with sensitivity to the relevant audience.

The Panel considered the sexual innuendo in version 1 and 3 of the advertisement in which Danielle Scott states "Oozing style and class, with a cheeky little...fit" As she finishes speaking she turns to show the back of her underwear. The Panel also considered the sexual innuendo in version 2 of the advertisement in which Charlotte Caslick states : "check out the new Aussie fit from Tradie. Down under we do things a little different. We're a whole lot of true blue and a little bit of how do you do." As she finishes speaking she turns to show the back of her underwear.

The Panel considered that although there is a degree of innuendo in these phrases, it is not explicit or overtly provocative. The Panel considered that while the advertisement may be viewed by a broad audience including children, the phrases



themselves were only mildly sexual and children would be unlikely to infer a degree of sexuality from the phrases. The Panel considered that the advertisement did treat the issue of sexuality in regards to the language of the advertisement with sensitivity to the relevant audience.

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 a factor when considering whether an advertisement firstly contains nudity and secondly treats that nudity with sensitivity to the relevant audience.

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 noted the complainants' concern that Danielle Scott's buttocks are visible during the advertisement.

The Panel considered that she is depicted wearing underwear in a bikini brief style, and that no part of her genitalia or gluteal cleft is visible. The Panel considered that these briefs are similar in coverage to what would be visible at the beach.

The Panel considered that all the people in the advertisement are appropriately covered and there is no depiction of genitalia or breasts/nipples. The Panel noted that the man in the advertisement is shirtless, however considered that most members of the community would not consider a shirtless man to be a depiction of nudity. The Panel considered that the advertisement did not depict nudity.

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 the Code on other grounds, the Panel dismissed the complaints.

