



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0270-19
2. Advertiser :	Hanes Brands Inc
3. Product :	Lingerie
4. Type of Advertisement/Media :	Internet - Social - Other
5. Date of Determination	11-Sep-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

There are two versions of this YouTube advertisement which feature balls which look like breasts.

The first version features someone bouncing two of the balls, and a view of the balls hitting the ground from below. A person kicking one of the balls like a soccer ball. A ball bouncing against a tennis racquet. And a number of the balls bouncing with the words "Stop your boobs playing their own game" superimposed on the screen. Five women in sports clothing are then seen stretching, shadow boxing, holding medicine balls and holding a tennis racquet.

The second version features a person throwing the a ball into a basketball net, with the ball hitting the rim and bending before going in with the words "Stop your boobs playing their own game" superimposed on the screen. Five women in sports clothing are then seen stretching, shadow boxing, holding medicine balls and holding a tennis racquet.

THE COMPLAINT

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



I trust in my initial reaction or instinct when I see an ad, and my reaction was of disgust. Breasts are private parts and should not be made into an item of mock, Berlei could relay the message (of bouncing pain) in a different way. The bouncing balls breasts are so real, my afterthoughts are, what next? shooting penis on tv? Did Berlei do any form of Ad testing before launching the ad? I doubt it.

<https://www.youtube.com/watch?v=iwg2K8Mr6Uo>

THE ADVERTISER'S RESPONSE

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

Targeted at: W18-44, W18-44 w/fashionistas, sports & fitness, shoppers

We have carefully considered the Code and submit that the Advertisement does not breach any part of section 2 of the Code for the reasons set out below.

Before looking at each provision in Section 2 of the Code we wish to describe the Advertisement and the rationale behind its creation. Berlei is an intimates brand that manufactures, markets and retails bras and underwear for women. Berlei has worked with the Australian Institute of Sport for over 20 years to gain a real understanding of the impact exercise has on women's breasts and to aid in the development of bras that are scientifically tested as to the support they provide. Berlei has also been a proud partner of Breast Cancer Network Australia since 2005, and have donated over 130,000 My Care kits to Australian women who've undergone breast cancer surgery. Berlei is committed to pioneering products, backed by ongoing research and development, that offer support to those affected by the disease.

Our research shows that a staggering 40% of Australian women don't wear a sports bra while exercising. Many women are unaware of the damage that can happen below the surface to the soft tissue and delicate Coopers' ligaments inside their breasts if they don't have the correct support. To prevent this damage Berlei wants women to be aware of the importance of wearing the right sports bra for the different sports in which they participate.

The Advertisement dramatizes the impact that playing sport can have on women's breasts, by drawing a correlation between that impact and the impact that's seen on soccer balls, basket balls and tennis balls in a slow motion replay. The dramatization urges women to stop their breasts "playing their own game". There are no real body parts used in the Advertisement and as such, no nudity.

This Advertisement has been given a 'G' rating by CAD in Australia, and has been approved for use by Google. As well as being available online, the Advertisement is aired on Free to Air television and has been scheduled so that it is not intended to be shown during any free-to-air programming targeting children. Due to an unexpected



change in programming out of our control we are aware of one instance in which it was aired during the Little Big Shots program, an item aimed at a family audience. However, that is not the intended audience.

Addressing each part of Section 2 of the Code, the relevant provisions and our comments in relation to each are as follows:

2.1 Advertising or Marketing Communications 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 preference, religion, disability, mental illness or political belief.

There is nothing discriminatory or vilifying contained in the Advertisement. The message of the Advertisement is for women to be aware of the impact that exercise can have on their breasts (if unsupported) and to then empower women to care for and invest in themselves by choosing the right bra for their sport. The Bouncing Balls shown in the Advertisement are clearly not real breasts or implants and there is no depiction of people (whether women or otherwise) having a disability or disfigurement. There is also nothing within the Advertisement that describes or depicts any negative, unfair or less favourable treatment of women or the disabled, or of any other person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief. The Advertisement is not encouraging people to treat women's breast like bouncing balls but is showing the impact women themselves are having on their breasts by exercising without a sports bra. The Advertisement does not humiliate, intimidate or incite hatred, contempt or ridicule for women or the disabled. It is an important health message that educates and encourages all women to feel empowered to invest in themselves and, contrary to what is currently occurring, use an appropriate sports bra when exercising so as to avoid damage to their bodies. A range of women of varying age, race and ethnicity are used in the Advertisement and none are depicted differently from the other on the basis of their age, gender, race, ethnicity or other such characteristic.

2.2 Advertising or Marketing Communications shall not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people. There are no images of Minors used in the Advertisement. Further, the Advertisement does not employ any sexual appeal, let alone in an exploitative or degrading manner. As already indicated the purpose of the Advertisement is to highlight the importance of women providing the proper support for their breasts when exercising to avoid damage. The "Bouncing Balls" shown in the Advertisement are clearly not real, are not sex toys and not sexualized in any way. Simply having a ball resembling a female breast, with the areola and nipple being included so it is more anatomically correct, does not automatically amount to "sexualisation". The mere inclusion of a male chest, with nipple exposed would equally not be seen as sexualisation. The Advertisement does clearly refer to women's breasts, but that is in the context of educating women about the risks to breasts when exercising without a suitable sports bra. There is nothing sexual about the presentation of the bouncing balls or the ladies exercising



and no attempt to debase or degrade women for the enjoyment of others. There is nothing in the Advertisement that takes advantage of the sexual appeal of women, by depicting them as objects or commodities.

2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised. There is no violence present or portrayed in the Advertisement. The Advertisement shows in slow motion the impact that certain sports can have on a ball. By depicting the balls as breasts, the Advertisement is drawing a correlation between the impact that can be seen on the ball, and the impact that often goes unnoticed on an unsupported women's breast. The Advertisement is not encouraging people to treat women's breast (or women in general) like bouncing balls or something that can be hit or kicked. The balls are intentionally, and clearly, not real breasts and there is no violence present or portrayed against the women in the Advertisement.

2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience. This Advertisement has been given a 'G' rating by CAD in Australia, and has been approved for use by Google. It is not sexually suggestive and does not depict any nudity as it has no real female breasts. Many complainants have highlighted that the depiction of animated male genitalia would be "equally objectionable". Women's breasts are not genitalia and no female genitalia have been depicted in any way in the Advertisement. We agree that depicting genitalia, either male or female would be objectionable, but highlight that has not occurred in the Advertisement.

2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided. The word "boobs" appears at the end of the commercial in the line "Stop your boobs playing their own game". Berlei believes that 'Boobs' is a word which is innocuous and in widespread and common use in the Australian vernacular. It is not used in a demeaning or aggressive manner in the Advertisement and as such, its use is not contrary to the Code.

2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety. The Advertisement contains an important health message that educates and encourages all women to feel empowered to invest in themselves and use an appropriate sports bra when exercising so as to avoid damage to their bodies. It does not show women involved in unsafe activities or acting in a way contrary to their health.

*2.7 Advertising or Marketing Communications shall be clearly distinguishable as such to the relevant audience. The Advertisement is clearly recognizable as an advertising or marketing communication to the relevant audience.
On the above bases, we submit that the advertisement does not breach any provisions of the AANA Code of Ethics.*

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 of breasts which should be kept private.

The Panel noted the complainant's concern that breasts should not be made fun of. The Panel considered that this was not an issue of itself under the Code of Ethics.

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

The Panel noted that there are two versions of this YouTube advertisement which feature balls which look like breasts.

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 advertiser's response that the advertisement is not sexually suggestive and does not depict any nudity as it has no real female breasts.

The Panel considered whether the advertisement contained sex, sexuality or nudity.

The Panel considered whether the advertisement contained 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 the advertisement did not contain sex.

The Panel considered whether the advertisement contained 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 the advertisement used balls which look like breasts as a visual analogy for the movement of breasts while playing sport and considered that this was not a depiction which was sexually suggestive. The Panel considered that while breasts are a female feature, the depiction of breast-like objects in itself was not a depiction of sexuality.

The Panel then considered whether the advertisement contained nudity. The Panel noted that it had previously considered other advertisements in this campaign on free-to-air television in case 0404/18, in which:



“The majority of the Panel considered that it was appropriate for an advertisement relating to breast support to contain references to and representations of breasts, as long as these are not depicted in a sexualised manner.

The majority of the Panel considered that the depiction of a representation of breasts was not sexualised, and was an artistic way to advertise a sports-based product.

The majority of the Panel considered the advertisement was not sexualised, did not contain nudity and was not inappropriate to be seen by a broad audience which would include children.”

Consistent with the determination in case 0404/18, the Panel considered that the advertisement did not contain sex, sexuality or nudity 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.