



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0270-21
2. Advertiser :	Australian Research & Space Exploration
3. Product :	Retail
4. Type of Advertisement/Media :	Email
5. Date of Determination	13-Oct-2021
6. DETERMINATION :	Upheld – Not modified or discontinued

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This email advertisement featured the text, "Ahoy there it's Clintern! Kath chucked this on my desk and I reckon it means...We have SUPER LIMITED SUPPLY of BRAND NEW VELCRO WALLETS!"

There is an image of a wallet on the desk with pieces of ham folded into it to resemble the shape of a vulva, and an open tin of fish next to it. A post-it note on the desk has the words, "This is the only one of these you'll ever get! - Kath" written on it.

THE COMPLAINT

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

The obvious vulgar imagery.

THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response.

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 uses vulgar imagery.

The Panel viewed the advertisement and noted the advertiser did not respond.

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 depictions where the depiction is not relevant to the product or service being advertised are likely to offend Prevailing Community Standards and be unacceptable.

"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."*

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 noted that the image depicted a representation of a vulva and a note stating "This is the only one of these you'll ever get!". The Panel considered that while this may be a reference to sex, it is not a depiction of 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 considered that the representation of a vulva, the added context of the open can of fish and the note were in combination sexual in nature. The Panel considered that the advertisement contained 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 ham in the advertisement had been styled in the shape of a vulva and that this was representative of nudity.

Is 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 advertisement was emailed to consumers. The Panel considered it likely that the mailing list would include people who had purchased from the store before or who had subscribers to the advertiser’s marketing material. The Panel considered that the audience would be adult.

The Panel noted that the website was known for selling satirical and humorous items related to the brand and space exploration. The Panel considered that the representation of female genitalia was not something that was related to the brand, and would not be something viewers of the email were expecting to see.

The Panel noted that the picture appeared to be set-up on an office desk belonging to an intern “Clintern” and considered that although this was meant to be humorous it was a depiction of sexual harassment in the workplace. The Panel considered that the depiction of sexual harassment is not appropriate in advertising a wallet.

The Panel considered that the placement of the ham and the open tin of fish was an offensive representation of female genitalia that was not appropriate or relevant in the promotion of a Velcro wallet.

The Panel considered that the suggested nudity and sexuality in the images were overtly sexual and not relevant to the promotion of the product.

The Panel considered that, in accordance with the Practice Note, this overtly sexual image is not relevant to advertising a wallet and does offend Prevailing Community Standards and is unacceptable.

Section 2.4 Conclusion



The Panel determined that the advertisement did not treat sex, sexuality and nudity with sensitivity to the relevant online audience and did breach Section 2.4 of the Code.

Conclusion

Finding that the advertisement did breach Section 2.4 of the Code, the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advertiser has not provided a response to the Panel's determination. Ad Standards will continue to work with the advertiser and other industry bodies regarding this issue of non-compliance.