



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

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| 1. Case Number : | 0271-20 |
| 2. Advertiser : | Yoins |
| 3. Product : | Lingerie |
| 4. Type of Advertisement/Media : | Internet - Social - Other |
| 5. Date of Determination | 23-Sep-2020 |
| 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

This internet advertisement depicts an image of a woman wearing a red and black babydoll lingerie set. The image does not show the woman's face.

THE COMPLAINT

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

Continually showing a partly dressed, provocatively standing lady. Very offensive.

Yahoo Webmail is used by all manner of people - I'm a middle-aged gent, and I'm offended by this.

I hate to think how it would affect young kids who use WEBMAIL (males particularly). They've had a number of different provocative women, with little hiding their genitals, often with bits hanging out.

I can click and clear the screen - but that's only for 30 seconds when adverts come on again. I don't mind adverts for cars, TVs etc - but this is designed to call attention - disgusting.

The manner which this woman is posed is designed to draw the eyes - the attached is the one which has been popping up for the last few days.



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 is offensive as it depicts a partly dressed, provocatively standing lady which is not appropriate for the broad audience of Yahoo Webmail users.

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

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 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 noted the woman is depicted wearing lingerie and considered that the advertisement did include 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 noted that the woman's face was not visible in the advertisement. The Panel considered that the depiction of a woman in lingerie was relevant to the product being promoted. The Panel considered that the image had been copped to show that the focus was on the product, not the woman or the woman's body.

The Panel considered that the advertisement did not depict the woman as an object or commodity. The Panel considered that the advertisement did not draw particular



focus or attention to any particular body part, and that the depiction of the woman in lingerie was relevant to the product being promoted. The Panel considered that the advertisement did not use sexual appeal in a manner that was exploitative of the woman.

Overall the Panel considered that the advertisement did not employ sexual appeal in a manner which is exploitative of the woman.

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 woman was not posed in a manner which depicted her as vulnerable or disempowered. The panel considered that the depiction of a woman wearing sexualised lingerie in a promotion for that lingerie was not a depiction which lowered the woman in character or quality 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 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 that the depiction of a woman in revealing lingerie is not a depiction of sexual intercourse, sexual stimulation or suggestive behaviour. The Panel considered that the advertisement did not feature or allude to sex.

The Panel considered whether the advertisement depicted 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 by itself a depiction of sexuality.

The Panel noted that the style of lingerie being worn by the woman was sexualised. The Panel noted the woman was posed with one hand on her hip and her legs slightly apart and that the pose was slightly sexualised. The Panel considered that the depiction of a sexualised product in combination with a sexualised pose is a recognition or emphasis of sexual matters and does constitute sexuality.

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 noted that the woman is depicted wearing a chemise which is sheer over the woman's waist, hips and thighs and that the outline of a g-string can be seen underneath the sheer material. The Panel noted that the woman's genitals and breasts were not visible. The Panel considered that some members of the community would view an advertisement depicting a woman in lingerie as a depiction of partial nudity.

The Panel then considered whether the issues of sexuality and nudity were treated with sensitivity to the relevant audience. 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' 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 concept of how subtle sexual suggestion is or might be is relevant to the Panel considering how some sections of the community, such as children, might perceive the advertisement.

The Panel noted that this image was seen on Yahoo webmail. The Panel noted that Yahoo terms of service require users to be at least 13 years of age, and that the majority of users accessing this site would be teenagers or adults.

The Panel noted 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



must not be not gratuitous and should be treated with sensitivity to the relevant audience.

A minority of the Panel considered that the combination of the woman posing with her legs open and the sexualised nature of the lingerie was not treating the issue of sexuality with sensitivity to an audience of people who had not elected to see this type of material.

The majority of the Panel, however, considered that the advertisement did not contain explicit nudity.

The Panel considered that the focus of the advertisement was not on the woman's body, rather it was on the product being promoted. The Panel considered that the advertisement contained a promotion for a discount on the product and did not contain sexualised language or any reference to the woman.

Overall, the Panel considered that the advertisement was consistent with the style of advertising for lingerie products and that the majority of teenage and adult webmail users would not find the image confronting or inappropriate.

The Panel determined the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant teenage and adult 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.