



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 :	0282-19
2. Advertiser :	The Firm Gentlemens Club
3. Product :	Sex Industry
4. Type of Advertisement/Media :	Poster
5. Date of Determination	11-Sep-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This poster advertisement features still images on rotation. The two images related to this case are:

Image One features a woman in a mask with the words "Sunday we unleash Fantasy Sunday" and the head of a woman in a gold rabbit mask.

Image two features a blonde woman wearing a black lace corset and underwear holding a jacket.

THE COMPLAINT

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

Ruling has already been upheld 0185-19. I object on exactly the same basis, with my objections strengthened by the fact that the advertiser is now blatantly ignoring a ruling. Also, I note that at least the external billboard is showing these images during the day time whether the club is open or not. I have seen them on Mon, Tues and Thursday mornings (8:30am) and evenings (5:30pm) repeatedly. The standard you walk past is the standard you accept. And I do not accept this for myself or my daughters.



THE ADVERTISER'S RESPONSE

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

Image of a woman in a mask with the words "Sunday we unleash Fantasy Sunday" and the head of a woman in a gold rabbit mask.

This poster was created to advertise our Sunday theme event.

Image of a blonde woman wearing a black lace corset and underwear holding a jacket.

This poster is a picture for one of our performers standing up in our emperor lounge (Our VIP Room) doing nothing sexual!!!!!!.

We believe it is not an objectification to anybody if the person chooses to be photographed erotically, as you can see on the image there are no suggestions of discrimination, harassment or violence against anyone.

The Firm is fully licenced Adult entertainment venue and has been since at least the 90s, we take our business very serious and we pride ourself's on professionalism in managing this venue.

"The Firm" is located on 142 North Terrace Adelaide, across the road from "Adelaide casino", there are no schools or day cares nearby, even though we always make sure our advertising materials is very carefully and professionally designed and distributed at all times.

We appreciate your efforts in resolving this complaint.

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 images inappropriate to be seen by children.

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

The Panel noted that this poster advertisement features still images on rotation, including the two images related to this case.

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 first 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 noted that Image One featured two women in masks, with the woman’s head in the rabbit mask being obviously superimposed over the image. The Panel considered that the woman were not shown together in an sexual way and were not engaging sexually stimulating or suggestive behaviour. The Panel considered that the wording ‘Fantasy Sunday’ in combination with women in masks may be sexually suggestive, but it was not in itself a depiction of sex.

The Panel noted that Image Two featured a woman in a corset and briefs standing and looking downward. The Panel considered that the woman was not engaging in sexual intercourse or sexually stimulating behaviour. The Panel considered that a depiction of a woman in lingerie was not in itself a depiction of sexually suggestive behaviour. The Panel considered that the image did not depict 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 of itself a depiction of sexuality.

The Panel noted that Image One featured an image of two women in masks and the words ‘Fantasy Sunday’ and considered that this was a reference to a sexualised event held at the venue. The Panel considered that fantasy role-play does constitute an emphasis of sexual matters and that this image is a depiction of sexuality.

The Panel noted that Image Two featured a woman in lingerie and considered that the depiction of a woman in lingerie was not in itself a depiction of sexuality, however considered that a depiction of a woman in lingerie in the context of advertising an adult venue was a depiction which did emphasise sexual matters and which did contain sexuality.

The Panel considered whether the advertisement contained nudity.

The Panel 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 treats nudity with sensitivity to the relevant audience.

The Panel noted that in Image One, one of the women is only depicted from the eyes upwards and the other is wearing a dress. The Panel considered that the woman in the dress is appropriately covered and that the image does not feature nudity.

The Panel noted that the woman Image Two was wearing a black lace corset and briefs with a necklace and holding a fur coat. The Panel considered that the woman's breasts and genitals were not visible and that there was no focus on any individual body part. The Panel considered that the woman was appropriately covered and that the image does not feature nudity.

The Panel then considered whether the advertisement treated the issue of sexuality 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' 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 these images appear as part of a rotation of images which appear on an electronic screen outside the venue. The Panel noted it had upheld considered other images in this rotation in case 0282-19. The Panel considered that the images were visible from the street and that the relevant audience would be broad and would include children.

The Panel considered that the references to 'fantasy Sunday' and the depiction of women in masks in Image One was not a depiction which children would understand to be sexual. The Panel considered that the sexual nature of the image was appropriately subtle and would not be understood by children. The Panel considered that Image One did treat the issue of sexuality with sensitivity to the relevant broad audience.

The Panel considered that the woman in Image Two was not posed in an overly sexual way and there was nothing in the image that suggests what the advertisement is for or that the business is sexual in nature. The Panel considered that children viewing the image would see a woman in underwear, but would not understand the sexualised nature of the business from the image. The Panel considered that Image Two did treat the issue of sexuality with sensitivity to the relevant broad audience.

The Panel considered that adult members of the community might prefer not to see this type of business advertised, but considered that as the business is legally able to advertise their service, that the advertisement does treat sexuality with sensitivity in that there is no context to the advertisement that directly emphasises sexual matters.



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.