



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 :	0285-20
2. Advertiser :	Honey Birdette
3. Product :	Lingerie
4. Type of Advertisement/Media :	Poster
5. Date of Determination	23-Sep-2020
6. DETERMINATION :	Upheld – Not Modified or Discontinued

### ISSUES RAISED

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

### DESCRIPTION OF ADVERTISEMENT

This poster advertisement depicts a woman wearing black hot pants with sheer black top and pasties covering nipples. The product name is Fonda.

### THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*The woman is near-naked from the waist up. This larger than life image is unsuitable for a public venue where people wish to conduct their business free from sexual harassment, and where children frequent. At karrinyup centre this ad is displayed a couple of metres from the seating area of a waffle and ice cream outlet which is popular with children. I object to the display of this image on the basis that it this is my community; I care for children, sex abuse survivors and other women in my community who are harmed by exposure to images like this. It is 2020- why does this advertiser insist on disrespecting members of the community and perpetuating gender inequality by presenting women as sex objects?*

### 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:

- Presents women as sex objects
- Features a woman who is near-naked from the waist up
- Is not appropriate for viewing by children, sex abuse survivors and women.

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 see-through lingerie and nipple pasties. The Panel considered that the advertisement did depict 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 it was clear from the advertisement that the product for sale was the lingerie. The Panel considered that the woman was not depicted as an object or commodity.

The Panel considered that the use of the nipple pasties meant that the viewer's eye was drawn to the woman's breasts. The Panel noted that lingerie and nipple pasties are products sold by the retailer, and therefore the focus on the woman's body parts was relevant to the product being sold.

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 noted the complainant’s concerns that the advertisement featured a high level of nudity which was inappropriate for a broad 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 or sexual stimulation. The Panel noted that the woman was depicted standing with her head tilted to the side and her arms by her side and considered that her pose and actions were not suggestive. The Panel considered that the depiction of a woman wearing lingerie does not in itself constitute 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 highly sexualised. The Panel considered that the depiction of a highly sexualised product 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 nipple pasties and that her nipples are covered. However, the Panel considered that the pasties draw the viewer's attention to the woman's breasts which can be seen clearly through the sheer fabric of the woman's shirt. The Panel considered that the advertisement did contain 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 appears in store windows and considered that the relevant audience includes retail workers, people shopping in the Honey Birdette store and people who are not shopping at Honey Birdette but who are walking past the store, and that this last group would include children.

The Panel considered 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 gratuitous and should be treated with sensitivity to the relevant broad audience.



The Panel noted that it had considered a similar image for the same advertiser in case 0150-19, in which:

*“The majority of the Panel considered that the black pasties on the woman’s nipples drew attention to her breasts and that therefore the image is highly sexually suggestive. The majority considered that although the woman’s nipples are technically covered, the shape of the pasties is the same as nipples and the remainder of the woman’s breasts are still clearly visible through the sheer fabric. The majority of the Panel noted that the pasties and the bodysuit are both products available for purchase at Honey Birdette, however considered that products must still be advertised in a manner that is suitable for advertising on the front window of a store that is located in a shopping centre...The majority of the Panel considered that many people in the community, including those who would view this advertisement, would find it confronting for an advertisement to feature images which focus on a woman’s breasts in advertising, even when these depictions are obscured by sheer fabric or other products. The majority of the Panel considered that the advertisement did not treat the issue of sexuality with sensitivity to the relevant audience.”*

Consistent with the determination in case 0150-19, the Panel considered that the use of the nipple pasties in the current advertisement drew attention to her breasts in a way which made the image highly sexualised. The Panel considered that community members viewing this advertisement would find the highly sexualised advertisement which focused on the woman’s breasts to be confronting and inappropriate in a public context.

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

Finding that the advertisement breached 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.