



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0304/18
2	Advertiser	Hanes Brands Inc
3	Product	Clothing
4	Type of Advertisement / media	Email
5	Date of Determination	11/07/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.2 - Objectification Exploitative - women
- 2.4 - Sex/sexuality/nudity S/S/N - nudity

DESCRIPTION OF THE ADVERTISEMENT

This email advertisement features two photographs of a model. In the first picture she is shown with a camera to her face, and is wearing black tights and a partially open shirt. In the second picture she is shown bending and touching her shoe, and is wearing high heels, tights and a black jacket.

THE COMPLAINT

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

My objection, having just escaped from the hell of being a teenage and 20-something woman, is that this advertising projects onto young women what they should be - sexualised (for someone else's pleasure not their own), not wearing a bra or top, ready 'available'. The advertiser should at least have the decency not to show her whole breast and nipple. What message does this send to young women? I thought we had advertising standards. This is not art. It is not subjective. This is advertising, with the expressed purpose to MAKE MONEY from women, not to empower them.



THE ADVERTISER'S RESPONSE

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

We refer to the letter dated 27 June 2018 in relation to complaint reference no 0303/18. Hanes Innerwear Australia Pty Ltd (Hanes), a wholly owned subsidiary of Hanes Brands Inc., owns the Totally Tights brand. Totally Tights is a new brand used in relation to Hanes' hosiery business and in particular, the Totally Tights website (totallytights.com.au) at which a range of Hanes' hosiery brands (Voodoo, Razzamatazz, Kayser, Sheer Relief and Bonds) are promoted and sold.

While the complaint only identifies items 2.2 and 2.4 of the Advertiser Code of Ethics (Code), in light of comments made in your 27 June 2018 letter, we have considered the complaint and the advertisement in question (the Advertisement) as against all the provisions of Section 2. We have carefully considered the Code and submit that the Advertisement does not breach the Code on any of the grounds set out below.

Before looking at each provision in Section 2 of the Code we note your statement that you had not seen the Advertisement as at the date of your letter. Accordingly we attach a copy for your perusal. We challenge the description of the Advertisement given in the complaint. The complainant states that the woman featured in the Advertisement "is getting ready to go out for the night and ... [shown] as though someone else is watching her in the room, she is 'on show' for them." "You can clearly see her whole breast and nipple in the ad". "She is wearing a leather jacket but nothing under that. Tights and black stilettos". We do not believe these statements to be correct.

The model (Bambi Northwood-Blyth) is shown in one image fully clothed in a dress and hosiery and taking a photo of herself in a mirror. The image was captured by her friend, stylist and photographer Alexandra Spencer. Both women were engaged by Hanes to feature a range of Voodoo hosiery during New York Fashion Week 2018. Both are Australian nationals who now live and work in New York, an achievement held in high regard by the Voodoo consumer. The image was taken in the model's own apartment in New York as the two prepared to go out. While part of her breast is showing, her nipple is not visible and her wardrobe is in line with what everyday women of her age wear. The second image shows Ms Northwood-Blyth, again fully clothed with a black dress under the leather jacket, adjusting her high heels. The style of the images is strongly in keeping with the image that Ms Northwood-Blyth cultivates of herself. That image is recognized by her 265,000 Instagram followers around the globe and in line with prevailing community standards. The image was approved for use by her modelling agency – they would not have approved the use of a picture that portrayed nudity or was out of keeping with Ms Northwood-Blyth's existing image.



The Advertisement was sent to selected consumers on Hanes' marketing database. In order to be part of the database, consumers are required to state that they are at least 18 years of age. The consumers selected were prior purchasers of Berlei branded products (intimate apparel), in particular hosiery. Accordingly the advertisement was targeted at adults and not distributed to children.

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. Nothing within the Advertisement describes or depicts any unfair or less favourable treatment, or humiliates, intimidates, incites hatred, contempt or ridicule of any person, let alone any person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

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 Ms. Northwood-Blyth's sexual appeal in an exploitative or degrading manner. As already indicated the purpose of the Advertisement is to highlight some hosiery products available at the new Totally Tights website. It features Ms. Northwood-Blyth as Voodoo's ambassador in a manner that is strongly in keeping with her own personal image. That image is in step with the image cultivated by numerous young women when going out, whether during the day or for a night with friends. While some of her breast is visible in one of the two shots, the nipple is not exposed and there is no attempt to debase or degrade her for the enjoyment of others. There is nothing in the Advertisement that lowers the model's character or, by extension, the character or quality of young women as a group.

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.

2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The audience for the Advertisement is adults interested in the purchase of underwear and intimate apparel, including hosiery. They are fashion conscious consumers who are socially connected. While part of the model's breast is visible in one image contained in the Advertisement, that element of the Advertisement is not emphasized



and neither of the images are sexually suggestive. The images are both candid shots of a young woman fully clothed and dressed to go out. Her wardrobe is in keeping with the fashion of young women around the globe and not inappropriate for the relevant audience.

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.

There is no language in the Advertisement other than the Totally Tights brand, the brand names of the hosiery products available at that website and a call to shop for those brands at the site.

2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

There are no health and safety issues arising out of the content of the Advertisement.

2.7 Advertising or Marketing Communications shall be clearly distinguishable as such to the relevant audience.

The Advertisement was distributed as an electronic marketing message to consumers who elected to receive marketing materials from Hanes. It was clearly recognizable as an advertising or marketing communication to the relevant audience.

On the above bases, we submit that the advertisement does not breach provisions 2.2 or 2.4 of the AANA Code of Ethics. Further, we submit that the advertisement does not breach any other provisions of the Code.

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 a provocatively dressed woman who is objectified and is not relevant to the advertised service.

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

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 noted this email advertisement features two photographs of a model. In the first picture she is shown with a camera to her face, and is wearing black tights and a partially open shirt. In the second picture she is shown bending and touching her shoe, and is wearing high heels, tights and a black jacket.

The Panel noted the complainant's concern that the advertisement objectifies the woman and depicts her as sexualised for someone else's pleasure.

The Panel considered that the woman in the advertisement was an adult who was depicted actively participating in activities while wearing the advertised product, and the woman was not depicted as an object or commodity.

The Panel considered that while the depiction of a woman in a jacket with no shirt underneath contained mild sexual appeal, the advertisement did not focus on any body parts which were not directly relevant to the tights being advertised.

The Panel noted the advertiser's response that there is nothing in the advertisement that lowers the model's character or, by extension, the character or quality of young women as a group.

The Panel determined that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people, and did not breach Section 2.2 of the Code.

The Panel then 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 that the audience for the advertisement is a mailing list of adult consumers who have previously purchased Berlei branded lingerie or hosiery products and considered that this adult audience would be unlikely to include young children.

The Panel noted the complainant's concern that the advertisement clearly shows the model's breast and nipple.

The Panel noted the advertiser's response that while part of the model's breast is visible her nipple is not exposed and it is not the focus of the advertisement.



The Panel considered that there was no nipple visible in the advertisement and the woman's breasts and genitals were appropriately covered.

The Panel noted that the clothing of the woman was mildly sexualised, but considered that her poses and the overall advertisement was not sexually explicit, and the clothing choices depicted in the advertisement would not be inappropriate for a primarily adult audience.

The Panel considered that the advertisement did treat the issue of 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 the Code on other grounds, the Panel dismissed the complaint.

