



**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

<b>1. Case Number :</b>	<b>0307-19</b>
<b>2. Advertiser :</b>	<b>Honey Birdette</b>
<b>3. Product :</b>	<b>Lingerie</b>
<b>4. Type of Advertisement/Media :</b>	<b>Poster</b>
<b>5. Date of Determination</b>	<b>25-Sep-2019</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

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

### DESCRIPTION OF ADVERTISEMENT

Large poster beside the entrance depicting woman in red lingerie. Style name is Gabrielle.

### THE COMPLAINT

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

*The manner in which the lingerie is advertised is objectifying women who ironically are Highpoints main clients . Totally out of character for the shopping centre and extremely dated, offensive and sexist. Bordering on soft porn. I was informed by concierge staff that complaints have been received before and this advertising falls within regulations.*

### 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 objectifying of women and is sexualised.

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 complainant's concern that the advertisement sexually objectifies the woman.

The Panel noted that the advertised product is lingerie and the advertiser is justified in showing the product and how it would be worn provided that in doing so it meets the provisions of the Code.

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 considered that the depiction of a woman in lingerie is one which most people would consider to contain 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 considered that the woman was depicted in a confident and controlled manner and that her depiction in lingerie was relevant to the product being sold. The Panel considered that the woman was not depicted in a vulnerable position and was not depicted as an object or commodity. The Panel considered that there was no



focus on a part of the woman's body that was not directly relevant to the product being promoted.

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 the woman was shown standing in a way which accentuated the product. The Panel considered that the depiction of a woman modelling lingerie was not a depiction which lowered the model in character or quality.

The Panel considered that the depiction of the model and the accompanying text did not lower the character or quality of the model 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 concern that the image borders on soft porn.

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 noted that the woman was posed wearing lingerie and considered that such a pose and such attire was not in itself a depiction of sexual intercourse or sexually stimulating or suggestive behaviour. The Panel considered that the advertisement did not contain 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 for the application of the term in the Code, the use of male or female actors in an advertisement is not of itself a depiction of sexuality.

The Panel considered that the image references sexual matters as it is a promotion for a store that sells lingerie in a wide variety of styles and that the image of the woman



posed in a manner that suggests she is showing off the lingerie is a depiction of the woman expressing her sexuality.

The Panel considered whether the advertisement treated the issue of sexuality with sensitivity to the relevant audience.

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 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 should be 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 noted 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 suggestions 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 this image appears in store windows and considered that the relevant audience includes retail and ancillary services 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 while the style of the lingerie is sexualised, the woman’s pose is confident and not inherently sexually suggestive. The Panel acknowledged that the sexualised nature of the product itself may not be considered appropriate to be advertised in public facing areas by some people shopping in the centre, including those with young children, however in this instance the Panel considered that there was no sexual messaging or themes in the advertisement which would make it confronting for these audiences. The Panel considered that young children would be unlikely to view this advertisement as sexually suggestive, and the most likely interpretation by this audience would be of a woman posing in underwear that is available for sale in the store. The Panel considered that the advertisement was



sexually suggestive due only to the nature of the product, but not highly sexually suggestive and that the advertisement did treat the issue of sexuality with sensitivity to the relevant audience.

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 considered that the Code is intended for the Panel to consider the concept of nudity, and that partial nudity is a factor when considering whether an advertisement treats nudity with sensitivity to the relevant audience.

The Panel noted that the woman is not entirely nude, however considered that the woman's cleavage was exposed and that the mesh material in the briefs the woman was wearing are suggestive of nudity.

The Panel then considered whether the advertisement treated the issue of nudity with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code provides:

"Full frontal nudity and explicit pornographic language is not permitted. Images of genitalia are not acceptable."

The Panel considered that the woman's genitals were not visible and that the women's breasts were covered by the product and not the focus of the advertisement. The Panel considered that there was no overt nudity at a level that most members of the community would find confronting or unacceptable. The Panel considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience and in the Panel's view the advertisement 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.