



Case Report

1	Case Number	0365/12
2	Advertiser	David Jones Ltd
3	Product	Clothing
4	Type of Advertisement / media	Outdoor
5	Date of Determination	26/09/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

Complainant's description: "A model wearing nothing more than bras and knickers."

THE COMPLAINT

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

I am offended to stand at a bus stop every morning waiting for a bus with an advertisement of a half-naked woman. If such an item was to be displayed at work this would be considered sexual harassment, can you please explain why this is not considered such in a public space? I also do not feel that this is appropriate for small children to view and my 2 year old and 4 year old daughters accompany me on the bus - they are not permitted to view in magazines or on TV images of half-naked people so again why is this appropriate for them to view at their local bus stop? Myself and my children have no choice given we live on this street and catch the bus on this street so why are Retailers allowed to put such advertisements out in public spaces? I would like to understand why the advertising standards board believes that this type of advertising is appropriate for public spaces given as stated above work places have much stricter and fairer rules in place? Why is my public space exempt from the same rules that apply in workplaces and schools?

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 complaint made by Ms Jacques in relation to what we believe to be David Jones outdoor advertising placement via JC Decaux on the side of a bus stop featuring the model, Miranda Kerr, promoting “Simone Perele” product.

With respect, we do not believe that the advertisement offends Section 2 of the AANA Code of Ethics. The advertisement in question is a promotion of lingerie. The David Jones advertisement is no different to any other kind of advertising featuring a model promoting lingerie or swimwear. It does not portray people or depict material in a way which is discriminatory or vilifies any kind of person. David Jones also does not believe that the advertisement in question employs any particular kind of sexual appeal. The model is simply wearing lingerie. It would be difficult to promote lingerie if models were not allowed to wear the product.

David Jones takes great care in ensuring compliance with the AANA Code of Ethics and consumer laws when it comes to advertising. In this case, the advertisement in question had also been approved by JC Decaux itself, as well as the Outdoor Media Association which, in its own Code of Ethics, will only endorse the display of advertisement that complies with a number of other codes and regulations, one of which is the AANA Code of Ethics.

David Jones therefore believes that its advertisement does not contravene any advertising code or standard. It has received no other complaints in relation to this advertisement.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concerns that the advertisement features an image that is inappropriate and not suitable for viewing by children.

The Board viewed the advertisement and noted the advertiser’s response.

The Board 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 Board noted that the woman in the poster is model Miranda Kerr. Miranda is posing in a lace panelled bra and underpants and leaning against some furniture. The text surrounding the image is promoting the brand Simone Perele and the store David Jones.

The Board noted that the model is posed in a manner which is clearly intended to show the underwear they are promoting and that the woman appears relaxed and confident.

The Board considered that it is reasonable to expect an underwear advertisement to feature imagery of underwear. A minority of the Board however, considered that the sheer nature of the lingerie in addition to the model touching the top of her briefs combine to portray an image that would breach the Code particularly in the outdoor medium.

The majority of the Board considered that the advertisement, while visible to a broad audience that includes children, is not sexualised and noted that based on recent research, most members of the community would not find the image to be inappropriate.

The Board noted that although the model is in lingerie her private areas are suitably covered and there is no inappropriate nudity.

Based on the above the Board considered that 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 the Code on other grounds, the Board dismissed the complaint.