



**Ad Standards** Community Panel  
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Ad Standards Limited  
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## Case Report

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| <b>1. Case Number :</b>                 | <b>0366-19</b>                          |
| <b>2. Advertiser :</b>                  | <b>Spearmint Rhino Gentlemen's Club</b> |
| <b>3. Product :</b>                     | <b>Bars/Clubs</b>                       |
| <b>4. Type of Advertisement/Media :</b> | <b>Billboard - Mobile</b>               |
| <b>5. Date of Determination</b>         | <b>13-Nov-2019</b>                      |
| <b>6. DETERMINATION :</b>               | <b>Dismissed</b>                        |

### ISSUES RAISED

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

### DESCRIPTION OF ADVERTISEMENT

This mobile billboard depicts a blonde woman in a white shirt and the text "Free Entry Tonight" along with details of the advertiser. The billboard features the same image on three sides with a different colour background on each.

### THE COMPLAINT

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

*This message is sexually explicit, displayed sexual objectification of women for the benefit of men, and is distasteful. It was exposed to children and non-target audience. It was unsolicited in the fact that I was unable to avoid it's exposure in the car.*

### THE ADVERTISER'S RESPONSE

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

*The Spearmint Rhino Melbourne prides itself on providing classy and professional adult entertainment. We understand that our type of entertainment is not for everyone and therefore keep that in mind when planning/promoting our business. Our*



*current mobile billboard advertisement is a clothed top half of a beautiful woman with a seductive look on her face. Unlike the complaint states/infers, there is no nudity. 80-90% of the females breasts in the advertisement are covered. There is cleavage but it is not lewd or distasteful. This billboard does exploit or degrade women. This billboard is not sexual in nature at all. I understand that some people do not like our form of entertainment but I believe this complaint has no merit. We have a right to legally promote/advertise our business. I do not believe this mobile billboard violates any law or standards of advertising at all.*

## **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:

- Displays sexual objectification of women for the benefit of men
- Is sexually explicit and able to be viewed by children and non-target audiences

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 first considered whether the advertisement used sexual appeal.

The Panel considered that the depiction of an attractive woman with cleavage showing in relation to a strip club, to be a depiction which contains 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 this is a legal business and although people may dislike the fact that women in the business are paid for adult entertainment services, this does not mean that the advertisement is exploitative.

The Panel considered that the woman depicted in the advertisement was shown as being confident and posing for the photo. The Panel considered that the woman's



hands were positioned holding each side of her top which draws attention to her cleavage, however the Panel considered that the focus of this pose was relevant to the business being promoted.

The Panel considered that the advertisement did not use sexual appeal in a manner which was 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 depiction of a woman in a sexualised pose to advertise a gentleman's club was not a depiction which lowered the model in character or quality.

The Panel considered that the depiction of the model 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 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 pose and attire of the woman, as association with a gentleman's club 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 depiction of the woman in a sexualised pose is a depiction of the woman expressing her sexuality. The Panel noted the mild double entendre of 'free entry tonight' and considered that this may be considered by some to be a recognition or emphasis of sexual matters. The Panel considered that the advertisement did contain 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 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 this may be considered by some members of the community as being suggestive of nudity.

The Panel considered whether the advertisement treated the issue of sexuality and nudity 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...Full frontal nudity and explicit pornographic language is not permitted. Images of genitalia are not acceptable."

The Panel considered that the depiction of the woman was relevant to the business being promoted. The Panel considered that although it is reasonable for an advertiser to depict a woman in a sexualised pose to promote a gentleman's club, 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 on a mobile billboard and considered that the relevant audience would be very broad and likely to include children.

The Panel considered that the woman's genitals were not visible and that the women's breasts were mostly covered by the woman's shirt and hands. 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 some members of the community may read 'free entry tonight', in conjunction with the image of the woman, to be a sexual innuendo, however considered that most people viewing this advertisement would take the message that the mobile billboard was promoting free entry to the venue.

The Panel considered that that the level of sexuality and nudity in the advertisement was only mild and that children viewing the advertisement would not understand the nature of the business.

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.