



## Case Report

1	Case Number	0370/15
2	Advertiser	Pacific Brands Holdings Pty Ltd
3	Product	Lingerie
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	23/09/2015
6	DETERMINATION	Dismissed

### ISSUES RAISED

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

### DESCRIPTION OF THE ADVERTISEMENT

A woman starts standing and then sits on a stool (Jessica Marais) in her underwear while dresses and clothing are presented to her by assistants. She talks about how uncomfortable the dresses can be. She states that "if it doesn't feel sensational, I just won't wear it."

### THE COMPLAINT

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

*I felt the young woman touched herself inappropriately (almost touching her breast) towards the conclusion of the ad. My four year old son was watching at the time.*

*Spelling bee - tv program is a very very popular tv program in which kids participate in the great Australian spelling competition.*

*kids across Australia are watching this program.*

*So in a commercial advertisement break between such - kids popular program , showing an lingerie advertisement with women sitting wearing lingerie is not going to impress anyone and it is shameful to show such advertisement in one of the most kids participated popular tv program.*

*In inappropriately sexual for the time of night.*

### THE ADVERTISER'S RESPONSE

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

*We write in response to the complaints against the Berlei Sensation TVC.*

*In September 2015, the Berlei Sensation campaign featuring Jessica Marais went live to launch Berlei's new product range – The Sensation. The product is Berlei's 'softest ever' and our message aims to communicate the supreme softness of the bra and underwear that Jessica Marais is wearing.*

*In regard to the complaint that has been made to the ASB under Complaint Reference Number 0370/15 against sections of 2.1 (discrimination or vilification), 2.2 (exploitative and degrading), 2.3 (violence), 2.4 (Sex, sexuality and nudity), 2.5 (language) and 2.6 (health and safety), we take the opportunity to refute these.*

*We strongly disagree that our Berlei Sensation campaign discriminates, vilifies, exploits or degrades anyone nor is it violent, sexualised or featuring nudity (as the main talent is wearing non-exposing brand and underwear). The talent used in the campaign is a well-known and loved Australian personality who does not use any inappropriate language. We disagree and do not believe the Berlei Sensation campaign poses any danger to health and safety.*

*Our current campaign was developed by an all female creative team, and uses humour to demonstrate that the strong female celebrity character can't find anything softer than her Berlei t-shirt bra to wear. She is depicted as a confident, strong woman who knows what she wants and is comfortable in her own skin.*

*Both spots were approved by CAD and given the following ratings:*

*· General / Warning for Atelier TVCs (BER007630A and BER007615A) which can be played any time except during P or C periods (which this spot was not featured during).*

*· Parental Guidance for Dressing Room TVCs (BER007630DR and BER007615DR) which can be played Weekdays 8.30am-4pm, Weekdays 7pm-6am and Weekends 10am-6am except during P or C periods (which this spot was not featured during).*

*We trust upon viewing the TVC, and our written response, you will agree that the Berlei Sensation campaign does not breach the AANA Advertiser Code of Ethics.*

## **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' concern that the advertisement features an imagery of a woman in underwear that is inappropriate for viewing by children.

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

The Board 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 Board noted that advertisement features a woman (Jessica Marais) in a dressing room with assistants and racks of dresses. She is talking to the camera about the difficulty in finding dresses that are comfortable to wear. The end of the advertisement shows a still frame with the words “nothing feels as good as The Sensation – our softest bra ever.” – Berlei. The Board noted that the advertisement is promoting a range of Berlei underwear called “the sensation range.”

The Board noted the complainant’s concerns that the advertisement is too sexualised for the time of day it is aired and not appropriate for viewing during children’s programming such as “the spelling bee.”

The Board noted that the advertisement focuses predominantly on the model and that she is wearing only underwear. The Board noted that the model is fully covered by her underwear and she is talking and making jokes about the difficulty she has in having to wear so many dresses that are uncomfortable.

The Board considered that it is reasonable for the advertiser to show a model wearing the product that they are trying to promote and that the advertisement is in keeping with the style of advertising used to highlight the features of a particular brand.

The Board noted that it had recently considered an advertisement of a similar nature (0330/15) that featured scenes of women in their underwear. In that case, the Board considered that “...the women’s private areas are covered, the style of lingerie is not sexualised and the poses and dance moves of the woman are not sexualised or inappropriate. “

The Board considered that in the current advertisement, most reasonable members of the community would agree that the content of the advertisement is not pornographic but rather a celebration of comfort and freedom. The Board noted in particular the scene where the model runs her hand along the length of her body and considered that the action is not intended to be sexualised and that she is merely highlighting the comfortable nature of the underwear.

The Board noted that the advertisement had been rated ‘W’ by CAD which means it can be broadcast at any time except during “P” and “C” rated programs and can be viewed by a broad audience including children.

The Board considered that the content of the advertisement is not sexualised and does not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children.

The Board determined that the advertisement 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 complaints.