



Ad Standards Community Panel
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Case Report

1. Case Number :	0375-19
2. Advertiser :	Honey Birdette
3. Product :	Lingerie
4. Type of Advertisement/Media :	Poster
5. Date of Determination	11-Dec-2019
6. DETERMINATION :	Upheld - Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This poster advertisement features the caption 'Carter' and two women standing in black lingerie one facing forward and the other standing side-on. The first woman is wearing a high waisted brief and a harness with straps covering her nipple, and she is holding a black leather flogger over her shoulder. The second woman is wearing a black push-up bra with a harness over the top, high-waisted thong underwear and a suspender belt with stirrup-like straps connecting to stockings. The poster features the words 'CARTER ride or die'.

THE COMPLAINT

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

Honey Birdette is a repeat offender in using ads that breach the codes of advertising. It is in a public place where children can see and replicates not only porn style but also gay porn as it is girl on girl. It is also bring fetish style sexual advertising and European style "girls in the window" prostitution.

This is inappropriate advertising and it not appropriate for the general public but certainly not for children. The harms done by the early sexualisation of children are well documented. Honey birdette has been breaching the code with impunity for over 10 years.



The ads were on display in high traffic areas of the malls. In one centre, the ads formed the backdrop for a children's Santa parade. The ads are highly sexualised and indistinguishable from an ad for the sex industry (eg strip venue) and unsuitable for display in general public space, let alone places where children are specifically invited to participate in activities. Moreover, people are working in these spaces- people who have a right to work without being exposed to sexualised imagery. The space does not belong to the advertiser and the advertiser has no right to impose its porn-themed ads onto an all-age, non-consenting audience who are not its customers.

THE ADVERTISER'S RESPONSE

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

Women being confident in their body does not equate to "porn".

And two women in an advertisement instead of a man and woman is not offensive because it is "not only porn style but also gay porn as it is girl on girl".

This outdated attitude reinforces all the negative stigma surrounding women's bodies and the freedoms of choosing ones sexuality. It shames women who are confident and proud of being a woman. It shames lesbians.

The national conversation and community standards have moved on from this homophobic and anti-women inference.

Why are we teaching young girls and women to be ashamed of their bodies? The female form not a matter of vulgarity or indecency.

I am entirely unapologetic for the confidence this campaign portrays and our choice to have two female models. No one should be shamed for their bodies or what they wear.

Honey Birdette is passionate about equal rights in advertising for women, whilst also respecting community values.

To be frank, I am not in the business of offending the customer or community. I am in the business of empowering women's bodies.

I will not and nor will our supporters succumb to anti-women hysteria and notions of a women bodies being prone to violence, assault or prostitution because of what they are wearing.

Honey Birdette is not a champion of explicit nudity, unequal power dynamics or overly sexualised poses in outdoor space and we are certainly not in the business of offending the community.

We care about women's rights, we care wholeheartedly about championing women and them embracing their bodies, not teaching them to be ashamed of them.



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 complainants' concerns that the advertisement:

- are highly sexualised
- resembles images that would be seen in porn publications
- is inappropriate to be seen in full view of children

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

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 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 whether the images depicted 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 considered that the depiction of two women in lingerie is not of itself a depiction of sexual intercourse, sexual stimulation or suggestive behaviour. The Panel noted the inclusion of the leather flogger, however considered that it was not depicted as though it was being used, and that there was no touching or interaction between the two women. The Panel considered that the advertisement as a whole did not contain sex.

The Panel considered whether the advertisement contained 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 the use of male or female actors in an advertisement is not of itself a depiction of sexuality.



The Panel considered that the style of lingerie being promoted was highly sexualised and that this did add an element of sexuality to the advertisement. The Panel considered that the depiction of the women wearing this style of lingerie was relevant to the product being promoted. The Panel also noted the inclusion of the flogger and considered that the depiction of a sex toy added to the sexuality in the advertisement. The Panel also noted that the use of the phrase 'ride or die' in an advertisement where one of the women was wearing buckles and the other was holding a flogger was an emphasis of sexual matters. The Panel determined 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 firstly contains nudity and secondly treats that nudity with sensitivity to the relevant audience.

The Panel noted that the lingerie worn in the advertisement is available for purchase at Honey Birdette, however considered that products must still be advertised in a manner that is suitable for advertising on the front window of a store that is located in a shopping centre. The Panel noted that the lingerie worn by the woman on the right covered her breasts and genitals. The Panel considered that the lingerie of the woman on the left exposed a large amount of the side of the woman's breasts. The Panel considered that the advertisement did contain nudity.

The Panel then considered whether the issues of sexuality and nudity were 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 considered 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 suggestion 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 service 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 be broad and would include children.

The Panel noted that recent research into community perceptions found that the general community were more conservative than the Panel's determinations relating to sexual imagery and nudity in advertising, and that the level of concern over nudity and sexualised content in advertising has been increasing over the last 10 years (https://adstandards.com.au/sites/default/files/2007-2017_community_perceptions_web.pdf).

The Panel noted they had considered a similar advertisement for the same advertiser in case 0491-18, in which:

"The Panel noted the underwear on the models, and considered that the women are well covered, the women's nipples and genitals are covered and the style of the underwear is similar to some contemporary fashions. The minority of the Panel considered that the advertisement is reflective of BDSM. The minority considered that such a depiction alluding to what some members of the community may consider to be extreme sexual practices is inappropriate for a broad audience. The majority considered that while the women's pose may be considered to be sexually suggestive, the imagery included on a poster that is visible to members of the community in a shopping centre is not explicit or graphically representative of sexual practices, and is not inappropriate for the relevant broad audience which would likely include children."

A minority of the Panel considered that consistent with the previous determination, the current advertisement's imagery is not explicit or graphically representative of sexual practices, and the sex toy is not prominent or shown in use. The minority of the Panel considered that the poses of the women were not sexualised and that the women were well covered. The minority of the Panel considered that children viewing the advertisement would view two women in black, strappy lingerie and would not understand the sexualised nature of the underwear or flogger. The minority of the Panel considered the phrase 'ride or die', and noted that the definition of the phrase is "a colloquial expression of extreme loyalty to someone or something" (<https://www.dictionary.com/e/slang/ride-or-die/>). The minority of the Panel noted that the phrase would be most familiar to young adults, and considered that in this context the phrase was used to express a close friendship, and was not a sexualised phrase.

However, the majority of the Panel considered that unlike case 0491-18, the lingerie of the woman on the left of the advertisement had a large amount of the side of her breast exposed and there was a greater level of nudity in the advertisement.

The Panel noted they had considered another similar advertisement for the same advertiser in case 0052-15, in which:



“The Board considered that this advertisement was more sexualised than previous advertisements. In particular, the Board noted the pose of the model with her finger in her open mouth and she is wearing PVC/leather style lingerie and handcuffs. The Board considered that this pose is sexualised and that the overall impression is more sexualised than the images used previously in cases 0281/14, 0300/14 and 0386/14. The Board noted that the display of the image in the store window means it is visible to a broad audience which would include children and considered that overall the depiction of a woman in a sexualised pose wearing PVC/leather look lingerie and handcuffs does not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children.”

Similar to the determination in case 0052-15, the majority of the Panel considered that the style and design of the lingerie was highly sexualised. The majority considered that the depiction of two women in BDSM style lingerie was highly sexually suggestive, and the inclusion of the sex toy added a level of sexual suggestion. The majority considered that while the phrase ‘ride or die’ may not have been intended as a sexual reference, it is likely to have a sexual implication to many people when used in conjunction with an image of what can appear to be a whip. The majority of the Panel considered that the combination of the BDSM style lingerie, the leather flogger and the sexual connotation of the words ‘ride or die’ amounted to a strong suggestion of sexual role play which most members of the community would find confronting and inappropriate to be displayed in a shopping centre window.

The Panel determined the advertisement did not treat sex, sexuality and nudity with sensitivity to the relevant audience and did breach Section 2.4 of the Code.

Finding that the advertisement did breach Section 2.4 of the Code, the Panel upheld the complaints.

THE ADVERTISER’S RESPONSE TO DETERMINATION

The ‘Hellrasier’ campaign featuring ‘Carter’ has finished and is no longer being used in store windows or digital screens.