



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

1. Case Number :	0376-19
2. Advertiser :	Honey Birdette
3. Product :	Lingerie
4. Type of Advertisement/Media :	Poster
5. Date of Determination	27-Nov-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This poster image features the caption "Cage Bust out!" Image features a woman sitting on a chair with her legs apart leaning forward, and another woman leaning on the back of the chair behind her. Both women are wearing black strappy lingerie.

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This outdated attitude reinforces all the negative stigma surrounding women's bodies and the freedoms of choosing ones sexuality.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 considered the women were not interacting with each other. The Panel considered that the advertisement did not contain sex.

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

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 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 considered that the woman on the left was bending over the chair and pushing her bottom out and that this was a sexualised pose. The Panel considered that the other woman was seated with her legs open and that this could also be considered a sexualised pose. 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 by both women on the right covered their breasts and genitals. 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 determined 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 considered that the pose of the woman who was bending over was sexualised, however her buttocks was angled away from the camera and the detailing on the side of the bodysuit was highlighted. The Panel considered that the woman's pose was not highly sexualised. The Panel considered that the seated woman was leaning forward with her shoulders relaxed and this was a comfortable, rather than highly sexualised pose. The Panel considered that the overall impression of the advertisement was not overly sexualised. The Panel considered that most members of the community would not find the level of nudity or sexuality in the advertisement confronting or inappropriate for a broad audience which would include children.

The Panel determined the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant broad audience and 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 complaints.