



Ad Standards Community Panel  
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## Case Report

1. Case Number :	0377-19
2. Advertiser :	Honey Birdette
3. Product :	Lingerie
4. Type of Advertisement/Media :	Poster
5. Date of Determination	11-Dec-2019
6. DETERMINATION :	Dismissed

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This poster advertiser features the caption 'Samantha, Hell Raiser!'  
A woman wearing red lingerie is sitting backwards on a chair leaning her arms on the backrest and resting her head on her hands.

### 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".*

...

...

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

...

*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: is highly sexualised, resembles images that would be seen in porn publications, and 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 a woman in lingerie is not of itself a depiction of sexual intercourse, sexual stimulation or suggestive behaviour. The Panel considered that the advertisement as a whole did not contain sex.

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

The Panel considered that the 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 woman wearing this style of lingerie was relevant to the product being promoted. The Panel considered that the pose of the woman, seated backwards on the chair with her legs open, was 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 factor when considering whether an advertisement firstly contains nudity and secondly treats that nudity with sensitivity to the relevant audience.

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](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 O124-19, in which:

*"The Panel considered that the depiction of the woman in lingerie was relevant to the product being sold and that the level of nudity in the advertisement was not inappropriate for a broad audience which would include children. However, the Panel considered the pose of the model is strongly sexualised, depicting her reclining with her legs open, her head tilted down but her gaze directly at the viewer. The Panel considered that the sexual pose of the woman in combination with the depiction of her in lingerie amounted to a sexualised image which was not appropriate for a broad audience which would include children."*



The Panel noted that the lingerie worn by the woman covered her breasts and genitals. The Panel considered that the way the woman was sitting and the style of the lingerie meant that a large amount of the woman's side of her buttock was visible. 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.

A minority of the Panel considered that similar to case 0491-18, the highly sexualised style of the lingerie of the woman with straps around her body and thigh with her buttocks uncovered in combination with the woman's pose seated with her legs apart straddling the chair, was an image that is highly sexualised. The minority of the Panel considered that the woman's dejected and pensive facial expression also depicted the woman as vulnerable and submissive image. The minority of the Panel considered that the woman's exposed buttock in combination with the pose and highly sexualised style of lingerie did amount to an image which was explicit and which members of the community would find confronting and inappropriate.

However, the majority of the Panel considered that unlike the determination in case 0124-19, the pose of the woman was not overly sexualised, and that while her legs were open to sit backwards on the chair, the viewer can only see the side of the woman's leg. The Panel noted that the use of a chair as a prop in photography is well known since the 1960s and that the image is stylised. A majority of the Panel considered the woman's head was leaning against her hands as though she was resting and that this was not an overtly sexualised pose. A majority of the Panel considered that the pose of the woman was not sexualised and that the woman was appropriately covered. The majority of the Panel considered that children viewing the advertisement would view a woman in red, strappy lingerie sitting on a chair and resting, and would not view the advertisement as sexualised.

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 breached 2.4 of the Code, the Panel dismissed the complaints.