



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 :	0378-19
2. Advertiser :	Honey Birdette
3. Product :	Lingerie
4. Type of Advertisement/Media :	Poster
5. Date of Determination	27-Nov-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, "Samantha - Hell raiser!" Image includes two women in red lingerie. One woman is reclining on a chair, the other woman is standing between her legs, leaning over the first woman.

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This outdated attitude reinforces all the negative stigma surrounding women's bodies and the freedoms of choosing ones sexuality.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 however, that the posing of the women, with one woman standing between the other woman's legs and leaning over her, and the other woman leaning back on the chair with her back arched, in combination with the sexualised style of the lingerie was a depiction which could be considered sexually stimulating or suggestive behaviour. The Panel considered that the advertisement as a whole did 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 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 noted the poses of the women were sexually suggestive and that this would be considered a depiction of a capacity to experience and express sexual desire and the recognition or emphasising 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 '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 the woman on the right covered her breasts and genitals. The Panel considered that the lingerie of the woman on the chair exposed a large amount of the side of the woman's buttock.

The Panel then considered whether the issues of sex, 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 that it had considered a similar advertisement for the same advertiser in case 0174-19, in which:

“The Panel considered that the pose of the women is sexually suggestive, and that most members of the community would consider their pose to be an indicator of a sexual relationship, particularly when wearing the lingerie. 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 considered that many people in the community, including those who would view this advertisement, would find it confronting for an advertisement to feature images which appear to depict a sexual relationship or a prelude to sex. The Panel considered that the advertisement did not treat the issue of sexuality with sensitivity to the relevant audience.”

Similar to the determination in case 0174-19, the Panel considered that the poses of the women, particularly when wearing highly sexualised lingerie, was an indicator of a sexual relationship and a suggestion that sexual activity is about to take place. In particular, the Panel noted the woman seated on the chair had her back arched and her legs apart with the other woman leaning over her with her hands on the arms of the chair and straddling one of the seated woman’s legs. The Panel considered that this was a highly sexually suggestive pose suggestive of a sexual relationship or a prelude to sex. The Panel considered that most members of the community would find the image confronting and inappropriate for viewing by a broad audience.

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

THE ADVERTISER’S RESPONSE TO DETERMINATION

The ‘Hellrasier’ campaign has finished and is no longer being used in store windows, digital screens & online.