



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0381-19
2. Advertiser :	Savers
3. Product :	Clothing
4. Type of Advertisement/Media :	Print
5. Date of Determination	27-Nov-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.2 Exploitative or Degrading
AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This print advertisement is a flyer. It depicts a woman in a singlet top and shorts, and she is stretching her sleeveless top and showing her midriff. Text on the flyer states "My clothes are half off, what about yours?" followed by "50% off used clothing".

THE COMPLAINT

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

Seeing a young woman with not much on targeted like a slut. It's demeaning to all women. Why the need to belittle women to sell clothes.

THE ADVERTISER'S RESPONSE

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

Savers is a for-profit global thrift retailer (op-shop) offering household goods, clothing and accessories for men, women and children. Through its unique business model of purchasing, reselling and recycling second-hand merchandise, the Savers family of



thrift stores gives local customers a smart way to shop and save millions of pounds of quality used items from landfills each year Savers operates over 300 locations and has over 20,000 employees in the United States, Canada and Australia. We operate 10 stores in Australia, with our headquarters based in Brunswick, Victoria.

To our knowledge in our 22 years operating in Australia, our advertising has never been questioned under the AANA Code of Ethics from a consumer or competitor. We understand the current complaint and take the consumer's concerns seriously, and apologize for offending her.

Six times a year we hold a 50% off sale and we use flyers and other advertising to promote the sale. The construction and presentation of the artwork and wording on the November Sale Day flyer noted in the consumer's complaint was never intended to be demeaning to women.

The woman on the flyer is presented as a 20-something, hip, carefree individual that is ready for summer. Her demeanor is not sexually explicit; however, she is stretching her sleeveless top and showing her midriff. The clothes she is wearing may differ from what is in our stores but represent the style of clothes which are most popular during our annual November sale (moving from Winter clothing to Summer clothing). The image is accompanied by language using the 'first person' asking "My clothes are half off, what about yours?" to reference our 50% off (half-off) sale on clothing. As young women are one of our key shopping demographics, our intent was to use a mischievous, joking manner in advertising our November sale that would appeal to young shoppers, including women.

Please accept the following response to each heading of Section 2 of the Code.

2.1 – Discrimination or vilification

The flyer does not use race, ethnicity, nationality or gender to discriminate or vilify any person or group.

2.2 – Exploitive or Degrading

The image of the woman with the accompanying language using the 'first person' as the reference "My clothes are half off, what about yours?", takes advantage of the sexual appeal of the woman in the picture. While the focus is not on the body parts of the woman, (intent was to highlight the seasonal summer clothing), we admit this could be construed as utilising sexual appeal but it does not degrade women. The 'first person' comment is meant to be linked to the half off sale (50% off) in a double entendre that is meant to be humorous, not degrading.

2.3 – Violence

The flyer does not present or portray violence against women.

2.4 – Sex, sexuality and nudity

The image did not show full frontal nudity or use explicit pornographic language.



We note that the code allows nudity and sexuality in an appropriate context (e.g. advertisements for fashion) and understand caution must be taken, given the applications of the relevant audience. We also note that advertisements which depict men and women scantily clad are generally acceptable, if relevant to the product. The image in question was promoting our November sale, coinciding with the change in seasons and encouraging shopping for Summer clothing.

2.5 – Language

The flyer does not employ any vernacular or colloquialisms that could cause offense.

2.6 – Health and Safety

The flyer does not present any safety issues nor does it make reference to the model's body in a way that would promote an unrealistic body image.

2.7 Distinguishable as advertising

The flyer did not try and hide its purpose to promote the November Sale Day. The section used to promote the sale made up more than 25% of the flyer.

Closing comment:

Savers believes the use of the image alone complies with the Code of Ethics. It promotes the products we sell, the change of season (Winter to Summer). However, when the image is accompanied with the use of a double entendre which is written in the first person, it changes the image of the woman, they become one, and we can understand that the message we intended to convey was different than what some consumers saw.

Throughout our design and print process we missed this connection and unequivocally apologise for this.

To our knowledge this is the first complaint to the AANA in 22 years of promoting Sale Days in Victoria. As a result of the complaint and working through the AANA Code of Ethics we have determined our Team needs to be better educated on the Code of Ethics (Advertising Standards) and we will begin to work with the AANA on a suitable program for our business.

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 complainant's concern that the advertisement was demeaning to women.

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



The Panel considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: “Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people.”

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised. Degrading – lowering in character or quality a person or group of people.

The Panel first considered whether the advertisement used sexual appeal.

The Panel considered that the depiction of a woman in lingerie is one which most people would consider to contain sexual appeal.

The Panel then considered whether the advertisement used sexual appeal in a manner that was exploitative of an individual or group of people.

The Panel considered that the woman was posed in a playful, rather than sexualised manner. The Panel considered that while there was a light-hearted innuendo relating to the woman’s clothing being half-off, this was to demonstrate a sale and was not depicted in a manner which sexualised the woman. However, the Panel considered that some members of the community would consider an attractive woman pulling up her shirt to reveal her stomach alongside wording suggesting her clothing was half off would be considered by some members of the community to constitute sexual appeal.

The Panel noted that it had considered an advertisement depicting women in lingerie surrounded by men in suits in case 0177-18, in which:

“The Panel noted that there was a reference to ‘taking it all off’ and this was a double entendre intended to refer to the percentage-off sale and the fact that the woman in the poster had taken her clothing off to reveal her underwear. The Panel considered the woman in the poster was smiling and confident, and there was no suggestion that she was telling other people to take their clothes off, rather that she was referencing the sale and modelling the product that was being sold. The Panel noted the product for sale was underwear and that it was reasonable for the advertiser to depict their product being worn, and there was nothing in the advertisement which suggested that the woman in the advertisement was an object available for sale. The Panel considered that the advertisement did not lower the woman in character or quality and there was nothing in the poster itself which would be considered degrading to women in general by most members of the community. The Panel noted the complainant’s concern that the slogan exploits women sexually for the sexual aggrandisement of men by being similar to the ‘take your top off’ slogan commonly



directed to women by men. The Panel noted that the wording of the poster, 'the take it all off sale', was not directed to the woman or women in general and was rather a reference to the percentage-off sale. The Panel considered that while the words 'take it all off' may also refer to the woman being in her underwear this is a light-hearted reference to people needing to remove clothes for underwear to be visible. The Panel considered that while the advertisement did contain sexual appeal the woman was not depicted as an object and there was no focus on her body which was not directly relevant to the product being sold. In the Panel's view, the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people."

In the current case, the Panel considered that the woman was depicted in a confident and controlled manner and that her depiction was relevant to the sale being advertised. The Panel considered that the woman was not depicted in a vulnerable position and was not depicted as an object or commodity. The Panel considered that there was no focus on a part of the woman's body that was not directly relevant to the sale being promoted.

The Panel then considered whether the advertisement used sexual appeal in a manner that was degrading of an individual or group of people.

The Panel considered the woman was shown standing in a playful rather than sexualised pose. The Panel considered that the depiction of the woman light-hearted and was not a depiction which lowered the model in character or quality.

The Panel considered that the depiction of the model did not lower the character or quality of the model and did not use sexual appeal in a manner that was degrading of the model.

On that basis, the Panel determined that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of an individual and did not breach Section 2.2 of the Code.

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 considered whether the advertisement contained 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 noted that the woman was posed as though removing her clothing, however considered that this was in a playful rather than sexualised manner and that



this was not a depiction of sexual intercourse or sexually stimulating or suggestive behaviour. The Panel considered that the advertisement did not contain sex.

The Panel considered whether the advertisement 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 for the application of the term in the Code, the use of male or female actors in an advertisement is not of itself a depiction of sexuality.

The Panel considered that the image was playful rather than sexual. The Panel considered that the suggestion of the woman's clothes being 'half-off' could be considered a recognition 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 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 treats nudity with sensitivity to the relevant audience.

The Panel considered that while there was a suggestion that the woman's clothes were 'half-off' the woman's breasts and genitals were covered. The Panel considered that the woman was lifting her shirt up to reveal her stomach, but considered that most members of the community would not consider this to be nudity. The Panel considered that the advertisement did not contain nudity.

The Panel considered whether the advertisement treated the issue of sexuality 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 noted 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 suggestions 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 was on a flyer which was distributed to people's mailboxes, and that this was likely to be seen by children. The Panel considered that the relevant audience for this advertisement was broad and would include children.

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 that the overall impression of the advertisement of the advertisement was playful rather than sexualised. The Panel considered that the reference to the woman's clothing being half-off was a light-hearted innuendo and that most members of the community would not view it in a sexual manner. The Panel considered that the level of sexuality in the advertisement was mild, and would not be considered confronting or inappropriate by children that may view the advertisement.

The Panel considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience and in the Panel's view the advertisement 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 complaint.