



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0402-19</b>
<b>2. Advertiser :</b>	<b>Hanes Brands Inc</b>
<b>3. Product :</b>	<b>Lingerie</b>
<b>4. Type of Advertisement/Media :</b>	<b>Internet</b>
<b>5. Date of Determination</b>	<b>11-Dec-2019</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This online advertisement is on the Bonds website and features an image of two men wearing boxers kissing. One man is seated on a kitchen bench and holding a bowl of cereal, the other man is standing in between his legs.

### THE COMPLAINT

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

*This is totally inappropriate for a Christmas advertisement. Nothing in this advertisement represents Christmas. This belongs more in an adults only environment. The man is also grabbing the other mans bum which is totally inappropriate. If this was a man grabbing a women's bum there would be uproar why the double standards. The intimacy of the kiss they are sharing is inappropriate as you can clearly see tongue action, which from what i hear the the couple are a real life couple so the intimacy is very clear. This is not a lingerie shoot or adult shoot this is an advertising campaign that is targeting everyone including kids which is just terrible. What happened to normal Christmas advertisements showing families around Christmas trees and so forth. When did Christmas become a sexual agenda.*



*This a family brand. My children see these tv ads, and if someone is browsing online they see the the pictures there too. This is Sexualising Clothing. Sexualising Christmas. Why do they have to push sexuality on to all viewers, including children? I would say the same if it was a man with woman.*

## **THE ADVERTISER'S RESPONSE**

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

*Bonds is an underwear and apparel brand, best known for creating fun, fashionable, comfortable undies and clothing for the whole family. Bonds launched their 2019 Christmas campaign on 3rd November, 2019 with their large format billboards going live one week earlier on 27th October, 2019.*

*Launching the festive Christmas range of underwear and clothing, the "It's the Bonds that make the season" campaign champions the love we have for those we're closest to and seeks to remind Aussies what's important at this time of year. The campaign puts a spotlight on some of the unique and touching bonds shared by real Australians and features real people – not paid models/actors – across both stills and film, who range in age from 9 months old to 91 years old. The campaign tells the story of a series of incredible bonds including a young woman who defied medical recommendations to donate a life-saving kidney to her younger sister, a couple who've been married for 70 years, and IVF triplets born to three different mothers.*

*The 18th November post on both the @bondsau Instagram page and BONDS Facebook page features Steve & Nicholas, a genuine couple from Melbourne, sharing a kiss in the kitchen as they eat their breakfast cereal – they are both wearing matching black Bonds trunks with silver stars – which is the key print motif of the Bonds Christmas range. The post copy reads "It's the little moments that make the Christmas season so special.1?" A similar image can be found on [www.bonds.com.au](http://www.bonds.com.au) of the couple as they move in towards each other for a kiss.*

*In regard to the complaints that have been made to the ASB under Complaint Reference Numbers 0394-19, 0395-19 and 0402-19 regarding section 2.4 of the AANA Advertiser Code of Ethics, we refute the suggestion that this post is about pushing a left-wing political agenda, a sexual agenda, or broaching on "gay porn". Bonds is an inclusive Australian brand and we believe it is important to represent and celebrate all Aussies – including this real, in-love couple. Showing an affectionate moment between a couple, be they same-sex or opposite-sex, is simply an acknowledgement of all the relationships that exist in our rich, diverse society and is a celebration of even the littlest of moments we all share with our loved ones during the festive season. Recognising that it's those sweet, intimate, everyday moments that truly bring meaning to the celebration of Christmastime is the overall intention of this integrated campaign and these scenes capture the essence of that perfectly.*



*Both Nicholas and Steve are in underwear as they are showcasing the Bonds Christmas range and their 'actions' are one in a series of romantic moments captured by the photographer and are reflective of the actual relationship that the gentlemen share. The post itself only features on Bonds' owned channels and doesn't have any paid media spend pushing it out. Any reach it has received is a result of organic engagement with the post which indicates it is in fact resonating with our Australian audience.*

*In relation to all claims that the campaign is discriminatory towards the Christian religion either due to the featured gay couple aspect or physical intimacy, we refute in all ways. Bonds is, after all, an underwear company that supports the belief that "Every single body deserves to be comfortable" and therefore showcases a variety of underwear styles across a diverse range of Australians looking and feeling comfortable within their own skin (and undergarments). Given that this campaign celebrates people of all different ages, ethnicities and religious beliefs coming together to enjoy the "festive season", we feel this epitomises the true meaning of Christmas for all Australians, including Christians.*

*For the above reasons, we assert this advertising campaign complies with sections 2.1, 2.2, 2.3, 2.4 and 2.5 of the Code, as well as all other parts of section 2. We trust upon reviewing the creative advertisements in line with our written response you will agree that Bonds' "It's the Bonds that make the season" Christmas campaign does not breach the AANA Advertiser Code of Ethics.*

## **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
- is inappropriate to be seen in full view of children
- is inappropriate for a Christmas advertisement

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

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

*"Discrimination – unfair or less favourable treatment.*



*Vilification – humiliates, intimidates, incites hatred, contempt or ridicule.”*

The Panel noted complainants’ concerns that the advertisement is inappropriate for Christmas.

The Panel considered that Christmas is a tenet of Christian religion and that these concerns may be considered by some members of the community to be discriminatory towards religion.

The Panel considered that depicting material which may be contrary to a person’s religious beliefs is not of itself a breach of the Code, if the advertisement contains no language or imagery which is discriminatory or vilifying of that religion.

The Panel considered that there is no reference to religion in the advertisement, and the only reference to Christmas is the sentence “It’s the little moment that make the Christmas season so special”.

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of religion and determined that the advertisement did not breach Section 2.1 of the Code.

The Panel then 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 image 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 men in underwear is not of itself a depiction of sexual intercourse, sexual stimulation or suggestive behaviour. The Panel noted that the men were kissing, but considered that there was no indication that this would lead to sex. 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 underwear being promoted was not sexualised and considered that the depiction of the men wearing this style of underwear was relevant to the product being promoted. The Panel considered that the depiction of the men kissing, with one sitting on a countertop was a depiction which most members of the community would find to be sexual. 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 noted that the underwear worn by the men covered covered their genitals. The Panel considered that most members of the community would consider an image of men dressed in only underwear to be a depiction of 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 re 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 appeared on the Bonds website and considered that the relevant audience would be predominately adults.



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 considered that while the depiction of the couple in the advertisement kissing was a depiction of sexuality, it was representative of a normal intimate moment between a couple rather than an explicit or overtly sexualised scene.

The Panel considered that the men are not touching each other in a sexual manner, there is no focus on genitals and their kiss was close-mouthed and affectionate.

The Panel considered that children viewing the advertisement would view a couple in a relaxed intimate moment 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 did not breach any other section of the Code, the Panel dismissed the complaints.