



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0404/18
2	Advertiser	Hanes Brands Inc
3	Product	Lingerie
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	26/09/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Disability
- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Degrading - women
- 2.2 - Objectification Exploitative - women
- 2.3 - Violence Domestic Violence
- 2.3 - Violence Violence
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.4 - Sex/sexuality/nudity S/S/N - nudity

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features several balls that look similar to breasts, being used as sports balls (tennis, soccer etc).

THE COMPLAINT

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

Despite communicating an important message in an (uncomfortably) memorable way,





this ad is too graphic because of the areola and nipple that feature prominently on every ball!

It is offensive and must be doubly so for women who have had to have their breasts removed due to cancer. This ad is degrading not only for cancer patients but should be offensive to every woman. I and many of my friends are disgusted and would like to see this ad removed from TV. Thank you for your consideration.

Having naked female breasts is giving young children the wrong message that its ok to show female breasts everywhere. The naked body is private and children should be taught that it is not ok to present the female body in such a way that it degrades women. I have a young daughter and this is sending the wrong message to all young girls. We should respect females.

It's inappropriate and on during times when the family (kids) is watching TV. This is a pure depiction of nudity even though they are not showing human breasts...its still the same thing and can be easily identified as breasts. It's disgusting..normalising things that should be private and covered up. Take it off air or put it on very late at night so children aren't exposed to it.

Breasts were depicted as bouncing balls that were hit with a tennis racket & also punched & kicked. I find this very inappropriate in a society that is trying to reduce domestic violence.

As a female I found the ad offensive calling the breast, part of the human female anatomy, to be boobs.

I was offended by this because men need scrotal support with their exercising but there is no way you would have tiny little balls flying around the screen with everyone grabbing them like they were free for all. No. That would be inappropriate. So why is it inappropriate for men and not women? It's just another way we are sending out mixed messages and re-inforcing inequality between men and women.

I am offended by a female secondary sexual characteristic - breasts - being objectified by being portrayed separated from the female body as things which can be treated in the same way as sports ball.

This is happening at the same as there is a govt sponsored program to encourage increased respect for women. This ad is directly counter to that initiative .

The statement below will discourage reasonable complaints ,although perhaps you are unaware of this.

Body parts (breasts) being kicked, punched and batted. It was violent and aggressive.



THE ADVERTISER'S RESPONSE

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

While the complaints identify items 2.1 - 2.4 of the Advertiser Code of Ethics (Code), in light of the range of complaints, we have reviewed the advertisement in question (the Advertisement) against all the provisions of Section 2. We have carefully considered the Code and submit that the Advertisement does not breach any part of section 2 of the Code for the reasons set out below.

Before looking at each provision in Section 2 of the Code we wish to describe the Advertisement and the rationale behind its creation. Berlei is an intimates brand that manufactures, markets and retails bras and underwear for women. Berlei has worked with the Australian Institute of Sport for over 20 years to gain a real understanding of the impact exercise has on women's breasts and to aid in the development of bras that are scientifically tested as to the support they provide. Berlei has also been a proud partner of Breast Cancer Network Australia since 2005, and have donated over 130,000 My Care kits to Australian women who've undergone breast cancer surgery. Berlei is committed to pioneering products, backed by ongoing research and development, that offer support to those affected by the disease.

Our research shows that a staggering 40% of Australian women don't wear a sports bra while exercising. Many women are unaware of the damage that can happen below the surface to the soft tissue and delicate Coopers' ligaments inside their breasts if they don't have the correct support. To prevent this damage Berlei wants women to be aware of the importance of wearing the right sports bra for the different sports in which they participate.

The Advertisement dramatizes the impact that playing sport can have on women's breasts, by drawing a correlation between that impact and the impact that's seen on soccer balls, basket balls and tennis balls in a slow motion replay. The dramatization urges women to stop their breasts "playing their own game". There are no real body parts used in the Advertisement and as such, no nudity.

This Advertisement has been given a 'G' rating by CAD in Australia, and has been approved for use by Google. As well as being available online, the Advertisement is aired on Free to Air television and has been scheduled so that it is not intended to be shown during any free-to-air programming targeting children. Due to an unexpected change in programming out of our control we are aware of one instance in which it was aired during the Little Big Shots program, an item aimed at a family audience.



However, that is not the intended audience.

Addressing each part of Section 2 of the Code, the relevant provisions and our comments in relation to each are as follows:

2.1 Advertising or Marketing Communications shall not portray people 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.

There is nothing discriminatory or vilifying contained in the Advertisement. The message of the Advertisement is for women to be aware of the impact that exercise can have on their breasts (if unsupported) and to then empower women to care for and invest in themselves by choosing the right bra for their sport. The Bouncing Balls shown in the Advertisement are clearly not real breasts or implants and there is no depiction of people (whether women or otherwise) having a disability or disfigurement. There is also nothing within the Advertisement that describes or depicts any negative, unfair or less favourable treatment of women or the disabled, or of any other person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief. The Advertisement is not encouraging people to treat women's breast like bouncing balls but is showing the impact women themselves are having on their breasts by exercising without a sports bra.

The Advertisement does not humiliate, intimidate or incite hatred, contempt or ridicule for women or the disabled. It is an important health message that educates and encourages all women to feel empowered to invest in themselves and, contrary to what is currently occurring, use an appropriate sports bra when exercising so as to avoid damage to their bodies.

A range of women of varying age, race and ethnicity are used in the Advertisement and none are depicted differently from the other on the basis of their age, gender, race, ethnicity or other such characteristic.

2.2 Advertising or Marketing Communications shall not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people. There are no images of Minors used in the Advertisement. Further, the Advertisement does not employ any sexual appeal, let alone in an exploitative or degrading manner. As already indicated the purpose of the Advertisement is to highlight the importance of women providing the proper support for their breasts when exercising to avoid damage. The "Bouncing Balls" shown in the Advertisement are clearly not real, are not sex toys and not sexualized in any way. Simply having a ball resembling a female breast, with the areola and nipple being included so it is more anatomically correct, does not automatically amount to "sexualisation". The mere inclusion of a male chest,



with nipple exposed would equally not be seen as sexualisation. The Advertisement does clearly refer to women's breasts, but that is in the context of educating women about the risks to breasts when exercising without a suitable sports bra. There is nothing sexual about the presentation of the bouncing balls or the ladies exercising and no attempt to debase or degrade women for the enjoyment of others. There is nothing in the Advertisement that takes advantage of the sexual appeal of women, by depicting them as objects or commodities.

2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

There is no violence present or portrayed in the Advertisement. The Advertisement shows in slow motion the impact that certain sports can have on a ball. By depicting the balls as breasts, the Advertisement is drawing a correlation between the impact that can be seen on the ball, and the impact that often goes unnoticed on an unsupported women's breast. The Advertisement is not encouraging people to treat women's breast (or women in general) like bouncing balls or something that can be hit or kicked. The balls are intentionally, and clearly, not real breasts and there is no violence present or portrayed against the women in the Advertisement.

2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

This Advertisement has been given a 'G' rating by CAD in Australia, and has been approved for use by Google. It is not sexually suggestive and does not depict any nudity as it has no real female breasts. Many complainants have highlighted that the depiction of animated male genitalia would be "equally objectionable". Women's breasts are not genitalia and no female genitalia have been depicted in any way in the Advertisement. We agree that depicting genitalia, either male or female would be objectionable, but highlight that has not occurred in the Advertisement.

As well as being available online, the Advertisement is aired on Free to Air television and has been scheduled so that it is not intended to be shown during any free-to-air programming targeting children. Due to an unexpected change in programming out of our control we are aware of one instance in which it was aired during the Little Big Shots program, an item aimed at a family audience. However, that is not the intended audience.

2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

The word "boobs" appears at the end of the commercial in the line "Stop your boobs playing their own game". Berlei believes that 'Boobs' is a word which is innocuous and in widespread and common use in the Australian vernacular. It is not used in a demeaning or aggressive manner in the Advertisement and as such, its use is not contrary to the Code.



2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

The Advertisement contains an important health message that educates and encourages all women to feel empowered to invest in themselves and use an appropriate sports bra when exercising so as to avoid damage to their bodies. It does not show women involved in unsafe activities or acting in a way contrary to their health.

2.7 Advertising or Marketing Communications shall be clearly distinguishable as such to the relevant audience.

The Advertisement is clearly recognizable as an advertising or marketing communication to the relevant audience.

On the above bases, we submit that the advertisement does not breach any provisions of the AANA 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' concern that the advertisement is discriminatory towards women, is degrading women, is promoting violence, contains nudity and sexualised content which is inappropriate for children to view and contains inappropriate language.

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

The Panel considered the television advertisement features people interacting with balls that look like breasts, including bouncing them, hitting them with a tennis racket, throwing them into a basketball hoop and punching them.

The Panel noted the complainants' concerns that men's genitals would never be used to advertise underwear, and that using breasts to promote bras is depicting inequality. The Panel considered that its role is to consider the content of advertising material as it is, and not hypothetical alternatives, and that this was not an issue that could be considered.

The Panel noted the complainants' concerns that the advertisement is offensive to



and upsetting for women who have had breasts removed because of cancer.

The Panel acknowledged that some people may be upset by this advertisement because of personal experiences, however considered that this is not an issue covered by the Codes and was not an issue which the Panel could consider.

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 complainants' concern that the advertisement is sexist and demeaning women by depicting breasts as balls.

The Panel noted the advertiser's response that there is nothing discriminatory or vilifying in the advertisement.

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 considered that the representation of breasts as balls in the advertisement is not inappropriate in the context of an advertisement for sports bras. The Panel considered that the advertisement is representing what happens to breasts during sport when they are not supported properly and considered that this representation through the balls does not show any women to receive unfair or less favourable treatment. Nor is it a depiction which humiliates, intimidates, incites hatred, contempt or ridicule for the women in the advertisement or women in general.

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 gender and determined that the advertisement did not breach Section 2.1 of the Code

The Panel noted that Section 2.2 of the Code states: "Advertising or marketing communications should not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) 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 - means (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 noted the complainants’ concerns that the depiction of breasts as balls making a direct comparison between breasts and an object.

The Panel noted the advertiser’s response that the advertisement does not employ sexual appeal and that the purpose of the advertisement is to highlight the importance of women having proper support for their breasts when exercising to avoid potential harm to delicate breast tissue and ligaments.

The Panel considered that the depiction of the breasts as balls in the advertisement was a representation of what happens to breasts during sport when they are not supported properly. The Panel considered that the images of the balls in the advertisement are not sexualised and that the advertisement is not employing sexual appeal.

The Panel determined that the advertisement did not employ sexual appeal and therefore did not breach Section 2.2 of the Code.

The Panel considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Panel noted the complainants’ concerns that the advertisement’s depiction of breasts being punched and kicked was promoting violence against women.

The Panel noted the advertiser’s response that the advertisement shows in slow motion the impact that certain sports can have on a ball which draws a correlation between the impact sports can have on women’s breasts when they are not supported properly and that there is no violence portrayed in the advertisement.

The Panel considered that there are no relationships shown in the advertisement and the advertisement could not reasonably be seen to be a depiction of domestic violence.

The Panel considered that while the imagery in the advertisement may be showing the representation of breasts in uncomfortable situations, this is in line with the message of the advertisement.



The Panel considered that the balls in the advertisement were clearly not real breasts, and that the depiction of the balls being kicked and hit was not a depiction of violence.

The Panel considered that the advertisement did not depict violence, rather it was demonstrating the discomfort that can be caused by not wearing an appropriate sports bra.

The Panel considered that the advertisement did not depict violence and considered that the advertisement did not breach Section 2.3 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 noted that the television advertisement had been given a G rating by CAD and would therefore be likely to be viewed by a broad audience which would include children.

The Panel noted the complainants' concerns that the depiction of nipples on breast-like balls is inappropriate nudity and not appropriate for viewing by children.

The Panel noted the advertiser's response that the advertisement is not sexually suggestive and does not depict any nudity as it has no real female breasts.

The Panel noted that the practice note for Section 2.4 of the Code provides that "Images which are not permitted are those which are highly sexually suggestive and inappropriate for the relevant audience...Images of nipples may be acceptable in advertisements for plastic surgery or art exhibits for example."

A minority of the Panel considered that breasts are seen as a sexual part of the body by members of the community, and representations of breasts may not be appropriate for young children who would not understand the message of the advertisement.

The majority of the Panel considered that the balls in the advertisement were not real breasts and although they were a realistic imitation of breasts, the various sporting balls did not amount to a depiction of nudity.

The majority of the Panel considered that it was appropriate for an advertisement relating to breast support to contain references to and representations of breasts, as long as these are not depicted in a sexualised manner.



The majority of the Panel considered that the depiction of a representation of breasts was not sexualised, and was an artistic way to advertise a sports-based product.

The majority of the Panel considered the advertisement was not sexualised, did not contain nudity and was not inappropriate to be seen by a broad audience which would include children.

The Panel determined that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

The Panel considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided”.

The Panel noted the complainants’ concerns that the word ‘boobs’ is offensive and inappropriate.

The Panel noted the advertiser’s response that ‘boobs’ is a word which is in common use in the Australian vernacular and is not used in an aggressive or degrading manner.

The Panel noted that they had previously considered complaints about a similar issue in case 0361/13. In this case, which identifies the Panel as the former Advertising Standards Board (the Board):

“The Board considered that the word ‘boobs’ was not strong or obscene and was not inappropriate as it is not strongly sexualised and is likely to be seen as being in the context of a brand which now sells bras. The majority of the Board considered that the use of the word Boobs was not inappropriate in the circumstances (including appropriate for the relevant audience and medium) and did not breach Section 2.5 of the Code.”

Consistent with the previous determination, the Panel considered that the word ‘boobs’ was not strong or obscene and was not inappropriate for use in an advertisement for bras.

The Panel determined that the advertisement did not breach Section 2.5 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaints.

