



**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>0409-19</b>
<b>2. Advertiser :</b>	<b>Honey Birdette</b>
<b>3. Product :</b>	<b>Lingerie</b>
<b>4. Type of Advertisement/Media :</b>	<b>Poster</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

Image features a woman in black strappy lingerie. The woman is seated on a chair and is leaning forward so that her elbows are resting on her legs.

### THE COMPLAINT

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

*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 wearing strappy black lingerie does not equal porn theme. If it were— every department and fashion store in the centre would need to be equally censored for the hundreds of black strappy outfits out there. If you require photos I can have someone run around centres and take them.*

*A woman on a chair leaning forward with her elbows on her knees is an iconic shot used by every SUPERMODEL through the past four decades. An empowering pose for any woman. But yet, Collective Shout are also pointing out on their FB page that “women hunching their shoulders, leaning forward and angling their heads.” are also degrading to women. So according to Collective Shout how are women supposed to stand in an advertisement. I am confused. Invisible?*

*Or is it that they want women's body confidence censored so women feel ashamed of themselves and that the exposure of their bodies causes them to be assaulted by men. This is so absurd. When did Australia become Saudi Arabia?*

*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.*

*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 complainant's 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 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 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 noted that the lingerie worn by the woman covered her breasts and genitals, and considered that there was not an excessive amount of bare skin displayed. The Panel noted that the woman was wearing thigh-high stockings. The Panel noted that the lingerie worn in the advertisement is available for purchase at Honey Birdette.



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 considered that unlike the determination in case O124-19, the pose of the woman was not overly sexualised, and that while her legs were open, her pose is relaxed and casual and there is no focus on the groin. The Panel considered that the pose of the woman was not strongly sexualised and that the woman was appropriately covered.



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 complaint.