



Case Report

1	Case Number	0435/12
2	Advertiser	American Apparel Inc
3	Product	Clothing
4	Type of Advertisement / media	Internet
5	Date of Determination	28/11/2012
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.4 - Sex/sexuality/nudity S/S/N - nudity

DESCRIPTION OF THE ADVERTISEMENT

The lingerie section of the American Apparel website features images of different women in various poses wearing lingerie. In some images the women are wearing thongs, in others they are reclining on beds, and one image features a close up image of a woman's bottom sitting on a bicycle whilst another image shows a women with her hands hooked under the sides of her knickers and pulling them down slightly.

THE COMPLAINT

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

According to Section 2 of the AANA Code of Ethics it appears the American Apparel internet site is objectifying women and girls younger than 16 years. This is done by portraying the young models in overtly sexualised poses where they are sometimes naked or near naked (even if only advertising socks). In comparison, the men's wear section shows the male models fully clothed (even when advertising underwear). The women's section of the American Apparel is so explicitly sexual it is difficult to discern what they are advertising and whether it is a 'soft core' pornographic web site. It is highly offensive to females of all

ages and would undoubtedly attract an audience that is clearly not interested in purchasing women's clothing.

THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response to the complaint.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted the complainant's concern that the advertisement features underage girls posing in a sexualised manner.

The Board viewed the advertisement and noted the advertiser had failed to provide a response.

The Board considered whether the advertisement was in breach of Section 2.1 of the Code. Section 2.1 of the Code states: "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...gender..."

The Board noted that the website features images of women clothed in products sold by the Advertiser and that many of these images are lingerie. The Board considered that the use of attractive women to model products for sale by the advertiser is not discriminatory or vilifying of women.

The Board also noted the complainant's concerns that the images of women on the American Apparel website feature more nudity than the images of the men and considered that whilst this portrayal would be considered to be unequal by most members of the community in the Board's view it does not of itself amount to a portrayal of women or of men which would amount to discrimination or vilification.

The Board determined that the material depicted did not discriminate against or vilify any person or section of the community on account of gender and did not breach Section 2.1 of the Code.

The Board 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 and degrading of any individual or group of people."

The Board noted the complainant's concerns that some of the models used in the advertisement appear to be underage and that they are posing in a manner which is sexualised and not appropriate.

The Board noted the practice note for Section 2.2 which reads: "In advertisements where images of children are used, sexual appeal is not acceptable and will always be regarded as exploitative and degrading....Children must not be portrayed in a manner which treats them as objects of sexual appeal".

The Board noted that the advertiser has not replied and that it has no information about the age of the models. The Board agreed that the models are young women but was not able to say that they are children.

The Board therefore considered whether the images are of themselves using sexual appeal in a manner which is exploitative and degrading.

The Board considered that most of the images do use sexual appeal but considered that none of the images used sexual appeal in a manner which is exploitative and degrading.

The Board determined that the advertisement did not employ sexual appeal in a manner which is exploitative and degrading and that the advertisement did not breach Section 2.2 of the Code.

The Board 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 Board noted that the relevant audience for this material are people attracted to the product who visit the website. The Board considered that the target audience is young adult men and women who are the target market for the apparel sold by the advertiser. The Board noted that it had previously upheld images on the advertiser's website (case reference 0141/10) and considered that in this instance the images used by the advertiser to promote their products were of a similar nature.

The Board noted the AANA Practice Note which provides that 'advertisements with appeal to younger people which contain sexualised images or poses are to be used with caution. Models which appear to be young should not be used in sexualised poses.

The Board noted that some images featured young women in bedroom settings and that some of these images, in particular the images of the young women modelling the red underwear and bra, were sexualised and inappropriate because, in the Board's view, the model appears inappropriately young.

With regards to the images of the young woman modelling the red lingerie, the Board noted that she is posed on an unmade bed. The Board considered that this young woman was depicted in a setting that was intended to look domestic. The Board considered that these images, the poses of the woman in the red lingerie and her youthful appearance, amounted to a depiction that is highly sexualised. The Board noted that the relevant audience is young metropolitan adults who are customers of the store and is not a general broad audience. However in the Board's view the depiction of a young woman in a sexualised manner does not treat sex, sexuality and nudity with sensitivity to the relevant audience and is a breach of section 2.4 of the Code.

The Board noted that the head and shoulders image of the same blonde model wearing a white bra was also sexually suggestive, primarily because the young woman appears to be very young and is posed in a sexually suggestive manner.

The Board also considered that the black and white triple image of a woman with a camera angle from the floor, in which the woman is pulling her underpants away from her body, is a sexually suggestive image and is inappropriately sexualised for the relevant audience.

The Board noted that in some images the women's nipples were visible through a partially transparent bra. The Board noted that it has upheld complaints about advertisements where a woman's nipples are visible. However in this advertisement the Board noted that the model is wearing the advertised product (which happens to be see through) and that in those two images the model is not posed in a sexualised position. The Board considered that the advertising of the bras which showed the model's nipples were, in the particular images, a depiction of nudity that was sensitive to the relevant audience ie: women looking to purchase a bra.

The Board noted the image of a dark skinned woman with her back to the camera pulling her underpants out from her body. The Board considered that this image was not sexually suggestive and did not breach section 2.4 of the Code.

The Board noted that while many of the images on the website are relatively mild in terms of sexualised images, that particularly in the lingerie advertising, there is a cumulative effect of sexualised images of young women that provides a high impact for the audience. The Board recognised that an advertiser can take a risqué approach towards advertising provided that the advertising is within the bounds of the Code of Ethics. In the Board's view however a number of images on this website are excessively sexualised taking into account the relevant audience.

The Board determined that these images did not treat sex, sexuality and nudity with sensitivity to the relevant audience and that the images breached Section 2.4 of the Code.

Finding that the advertisement breached Section 2.4 of the Code, the Board upheld the

complaint.

ADVERTISER RESPONSE TO DETERMINATION

The ASB ruling objects to the use of models wearing lingerie in photographs in the lingerie section of the American Apparel website. Lingerie is clearly for adults and the women modeling the products are also adults. We continue to do our best to abide by the rules of the ASB but as a company that values a free, artistic expression--and sees millions of online visitors a month without complaint--this is becoming increasingly difficult to do. Going forward, we hope the ASB will consider our perspective.

We have instructed the web department to remove the particular images from the Australian website.