



Case Report

1	Case Number	0523/16
2	Advertiser	Bendon Ltd
3	Product	Lingerie
4	Type of Advertisement / media	Billboard
5	Date of Determination	07/12/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

The billboard advertisement features Heidi Klum reclining wearing a bra, briefs and heels against a black background.

THE COMPLAINT

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

I do not object to such advertisements being shown in the relevant store or on the website or on television at appropriate times. I do object to them being shown in such a public and prominent location. The location and size of the screens means that people all of all ages cannot help but see them.

This objectification of women damages everyone. Men are damaged by the enticement to lust and the encouragement to evaluate women on the basis of appearance. Women are damaged by this objectification, and the presentation of an ideal which very few are able to achieve, and even those who can, can only able to do for a short period. I am thankful that I did not have my male children and teenage daughter with me; of course there were many children and teenagers who did see it.

THE ADVERTISER'S RESPONSE

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

Thank you for the opportunity to respond to the complaint 0523/16 received in respect of the Advertisement. Bendon takes great care in ensuring compliance with the AANA Code of Ethics (Code) and consumer laws when it comes to advertising. In respect of the information specifically requested, please see below:

Bendon takes its advertising obligations seriously, we refer to Section 2 and Section 3.1 of the Australian Association of National Advertisers (AANA) Code of Ethics.

In reference to Section 3.1: Advertising or Marketing Communications to Children shall comply with the AANA's Code of Advertising & Marketing Communications to Children and section 2.6 of this Code shall not apply to advertisements to which AANA's Code of Advertising & Marketing Communications to Children applies.

Bendon submits that neither advertisement falls within the definition of an "Advertising or Marketing Communication to Children" as set out in section 1 of the Children's Code. We confirm that the Advertisements does not feature nor is it aimed at children (noting the Code defines a child as being 14 years or younger).

The products being advertised - bras, women's briefs and women's swimwear - are not intended to be worn by children aged 14 years or younger and is not an advertisement which is targeted toward or has principal appeal for children. Bendon does not consider the advertisement to breach any part of Section 2 of the AANA Advertiser Code of Ethics (the Code) or any section of the AANA Code for Advertising and Marketing Communications to Children (the Children's Code).

In reference to Section 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.

Bendon submits that our advertising campaign does not discriminate against or vilify any section of the community. The model in the campaign, Heidi Klum, is shown in a complementary way which neither discriminates nor vilifies her nor any section of the community that she might be representative of.

In reference to Section 2.2:

Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

We note that the Code does not state 'Advertising or marketing communications should not employ sexual appeal' but rather 'Advertising or marketing communications should not

employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people'. Bendon strongly refutes that the images in the campaign could be considered exploitative or degrading. Heidi Klum is a well-known model, mother of four and a successful businesswoman. Most importantly, she is Creative Director of the Heidi Klum brand of lingerie and swimwear. This campaign shows her wearing her own creations, she is depicted in a strong and confident manner and not being "objectified". Since Heidi Klum has complete creative control of both the brand and of the shoot that she is being featured in, it would be hard to argue that she is being exploited or degraded.

In reference to Section 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 in this advertising campaign.

In reference to Section 2.4

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

There is no sex in this campaign, implied or otherwise.

There is also no nudity; Heidi Klum is shown wearing a selection of swimsuits which can be seen on any Australian beach. Her bra and briefs provide full coverage of the relevant areas. In response to the specific concerns raised in the complaint, Bendon respectfully submits that it is necessary and reasonable to depict the product that is the subject of the Advertisement (in this case, underwear and swimwear. We refute the inference that women's bodies in underwear are inherently sexual. Heidi Klum is attractive, and we make no apologies for that. Her poses are neither "seductive" or "provocative" as alleged, she is shown standing or twirling for the camera whilst smiling. In the billboard, she is shown reclining, resting on her elbows. The scenes are not intended, nor should it be interpreted, to be sexual in any way. The close ups are to show the detail of the product, not to focus on any specific body part.

In regards to Section 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."

Aside from the logos 'Heidi Klum Swim' and 'Heidi Klum Intimates' there is no language, either spoken or written in this advertising campaign.

In regards to Section 2.6

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

We do not consider that there are health and safety concerns attached to the advertisement. We consider the advertisement does not breach section 2.6 of the Code.

In summary, it is Bendon's submission that the complaints should be dismissed and that no further action should be taken in respect of this matter for the reasons set out above.

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 complainants’ concerns that the advertisement objectified women.

The Board viewed the advertisement and noted the advertiser’s response.

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 that this billboard advertisement features model Heidi Klum reclining wearing black lace lingerie and black heels.

The Board noted that in order to be in breach of this section of the Code the image would need to use sexual appeal in a manner that is both exploitative and degrading.

The Board noted the Practice Note for Section 2.2 which provides the following definitions:

- “Exploitative means clearly appearing to purposefully debase or abuse a person, or group of person, for the enjoyment of others, and lacking moral, artistic or other values;
- Degrading means lowering in character or quality a person or group of persons.”

The Board considered the model was shown to be relaxed and confident and considered her pose was not overly sexualised in the context of a well-known model wearing the advertised product.

The Board considered the advertisement showed the model to be confident and not posed in a demeaning manner and the image was not exploitative or degrading.

The Board considered that the advertisement did not employ sexual appeal in a manner which is exploitative and degrading to any individual or group of people.

The Board determined 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 the advertisement was to promote Heidi Klum’s range of lingerie and considered it was reasonable for the advertiser to depict a woman in lingerie to promote the product.

The Board noted that the model was wearing the advertised product and considered her pose was more relaxed than sexual.

The Board noted the placement of the advertisement on a digital billboard at a shopping mall and considered that the content was only mildly sexualised and was not inappropriate for a

broad audience that would include children.

The Board considered that the advertisement did not depict sex, sexuality and nudity and determined that the advertisement did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaints.