

Case Report

1. Case Number :	0024-23
2. Advertiser :	Honey Birdette
3. Product :	Lingerie
4. Type of Advertisement/Media :	Store Window
5. Date of Determination	22-Feb-2023
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This store window advertisement features a woman posing in a red lingerie set. The word 'Ruby' appears at the bottom of the image.



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

I object to a porn giant exposing children in my community to oversized porn inspired ads featuring bare naked genitalia.

THE ADVERTISER'S RESPONSE

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

Honey Birdette is a luxury lingerie retailer that shows women wearing lingerie in our advertising

As a company led by women and with a more than 80% workforce of women, we support the empowerment of women and their right to pursue pleasure in a safe and inclusive environment. As such we are disappointed to learn about the misinterpretation of our advertising

In complaint 0024-23 there has been one complaint and we would state the women photographed is not in any sexual pose and is standing in her lingerie showing what is available to purchase in the store.

Women in lingerie therefore always will appear 'near naked' as we are advertising lingerie by using women dressed in lingerie.

The Genital area is covered by the underwear she is wearing in line with the actual knicker we are selling.

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 concern that the advertisement is too sexualised to be displayed in a location where children can view it.

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

Section 2.4: Advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code states:

"Overtly sexual images are not appropriate in outdoor advertising or shop front windows.

"Although not exhaustive, the following may be considered to be overtly sexual:

- Poses suggestive of sexual position: parting of legs, hand placed on or near genitals in a manner which draws attention to the region;*

- *People depicted in sheer lingerie or clothing where a large amount of buttocks, female breasts, pubic mound or genital regions can be seen; The use of paraphernalia such as whips and handcuffs, particularly in combination with images of people in lingerie, undressed or in poses suggestive of sexual position;*
- *Suggestive undressing, such as pulling down a bra strap or underpants; or*
- *Interaction between two or more people which is highly suggestive of sexualised activity.*

“Discreet portrayal of nudity and sexuality in an appropriate context (eg advertisements for toiletries and underwear) is generally permitted but note the application of the relevant audience. More care should be taken in outdoor media than magazines, for example.

“Images of models in bikinis or underwear are permitted, however, unacceptable images could include those where a model is in a suggestively sexual pose, where underwear is being pulled up or down (by the model or another person), or where there is clear sexual innuendo from the ad (e.g. depicting women as sexual objects).”

Does the advertisement contain sex?

The Panel considered whether the advertisement contained sex. The Panel noted the definition of sex in the Practice Note is “sexual intercourse; person or persons engaged in sexually stimulating behaviour”.

The Panel considered that the woman is not engaging in sexual activity. The Panel considered that the advertisement did not contain a depiction of sex.

Does the advertisement contain sexuality?

The Panel noted the definition of sexuality in the Practice Note is “the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters”.

The Panel noted the advertisement depicted a woman in lingerie and that this was a depiction of sexuality.

Does the advertisement contain nudity?

The Panel noted that the definition of nudity in the Practice Note is “the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity”.

The Panel noted the advertisement depicted a woman in lingerie and that this was a depiction of partial nudity.

Are the issues of sexuality and nudity treated with sensitivity to the relevant audience?

The Panel noted that the definition of sensitivity in the Practice Note is “understanding and awareness to the needs and emotions of others”.

The Panel considered that the requirement to consider whether sexual suggestion is ‘sensitive to the relevant audience’ requires 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 Panel noted that this image appears in store windows and considered that the relevant audience includes retail 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 include children.

The minority of the Panel considered that while the woman’s genitals may not be visible, the lingerie uses a skin-coloured mesh material and the overall impression is that a large amount of her pubic region is visible. The minority considered that many members of the community would find this to be a confronting level of apparent nudity in a public space and considered that it was not appropriate for the relevant broad audience which would likely include children.

The majority of the Panel considered that the image featured one person and there was no particular focus on her body parts. The majority noted that the woman’s breasts are appropriately covered and while the groin area of the lingerie was small, her genitals are covered. The Panel noted that the overall scene was similar to what would be seen in high fashion swimwear images, and that these types of images were not overtly sexual.

The majority of the Panel considered that the sexualised nature of the advertisement came from the products being advertised and that the woman’s pose and the context of the advertisement were not overtly sexual. The Panel considered that it is reasonable for an advertiser to feature their products in a shopfront advertisement, so long as the depiction of those products is not overtly sexual.

Overall, the Panel considered that the image was not overtly sexual or inappropriate for use in a setting where a broad audience would view the advertisement.

Section 2.4 Conclusion

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

Conclusion

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