

Case Report

1. Case Number :	0186-23
2. Advertiser :	Lovehoney Australia Pty Ltd
3. Product :	Sex Industry
4. Type of Advertisement/Media :	Billboard
5. Date of Decision:	13-Sep-2023
6. Decision:	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT



This billboard advertisement features the words "Winter chills have never felt so good" and a picture of a hand holding a sex toy in-between a pair of feet in socks.

THE COMPLAINT

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

This is an overt sexual message in a public place where children frequent. The billboard is in a busy area surrounded by hairdressers, doctors, and shops. There are also a number of schools close by. Messaging such as this robs our children of their innocence, sparks interest in sexual experimenting at too young an age when they are not mature enough to understand or process it. It also trashes the sacred right of parents to protect their children from adult concepts.

Advertising sex toy. Inappropriate for public display where my daughter saw it.

This is not appropriate whatsoever for the public domain either adult or child. Not the kind of advertising we want to see and certainly not for children to see.

Billboards of this nature, threaten children's innocence and remove parent's rights to regulate images and messages their children are exposed to! The sexualisation of children in public spaces is horrifying, unnecessary and disgusting. Child development experts and groups like the Australian Medical Association have reported the harms of sexualising children through advertising. Links to negative impacts on children's innocence and subsequent healthy development are well-established.

There should be bans on outdoor advertising that will have the effect of sexualising children. The billboard is in a very public position, close to take away shops, early childhood education and care centres, the library as well as a thoroughfare for parents travelling to nearby schools.

THE ADVERTISER'S RESPONSE

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

The complaints submitted seem to primarily centre on Section 2.4 of the AANA Code of Ethics, which stipulates that "Advertising shall treat sex, sexuality, and nudity with sensitivity to the relevant audience."

As articulated in the AANA Guide, advertising may encompass elements that are "mildly sexual" but should not venture into the realm of being "overtly sexual."

The Advertisement in question does indeed contain a sexual reference, primarily attributed to the phrase "Discover your sexual happiness" and the presence of a sexual device positioned between the two feet and the lower portions of their shins. However, it is essential to underscore that the content of the advertisement is intentionally discreet, indirect, and devoid of overt sexuality.

We would like to complement as follows:

The "Discover..." claim doesn't carry any explicit sexual connotations and conveys a positive message, emphasising individual happiness and satisfaction. Notably, the statement on the left side of the advertisement, "Winter chills have never felt so good," is generic, with no sexual reference or innuendo. The sexual device displayed features a neutral design that does not closely resemble or mimic any anatomical body part.

Both claims and the depiction of the feet/shins subtly allude to the use of the device in a manner that would not be readily comprehensible to a younger audience. It is pertinent to highlight a deliberate choice made in the advertisement's execution—the conservative attire, including socks and a sweater, adorning the depicted extremities, which serves to mitigate any overt sexual implication. In this manner, the sexual reference is deliberately toned down to a minimal level.

In summary, we believe that the advertisement does not exceed the threshold of "mild sexual content" and, therefore, does not violate Section 2.4 of the AANA Code of Ethics.

THE DECISION

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' concerns that the advertisement contains sexualised material which is inappropriate for children to view.

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 contains 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 noted that the person in the advertisement is posed holding a sex toy up between their legs. The Panel considered that the toy was not in use, and while there was a suggestion that the person may be about to masturbate, this is not depicted in the advertisement.

The Panel considered that the advertisement does not contain 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 that the advertisement includes a sex toy and the words “sexual happiness” and considered that the advertisement did contain 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 that the advertisement depicted the person’s legs from below the knees and considered that the advertisement did not contain nudity.

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

The Panel noted the advertisement is displayed on a large outdoor billboard.

The Panel noted the complainants’ concerns that the advertisement is visible to children and is in a neighbourhood where it is close to child care centres, schools, and shops.

The Panel considered that the relevant audience for the advertisement would be broad and include children.

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 noted that some members of the community would prefer that this type of product not be advertised at all or where it can be seen by children. The Panel noted

that its role is to consider the content of an advertisement and not the product being advertised.

The Panel considered whether the image used in the advertisement was overtly sexual.

The Panel considered that while the advertisement was for a sexual product the depiction of the product was not explicit. The Panel considered that young children would not understand what is being advertised. The Panel considered that the imagery and wording on the billboard was discreet and was not an overtly sexual depiction.

The Panel therefore decided that the advertisement was not overtly sexual and that the sexuality in the advertisement was treated with sensitivity to the relevant broad audience.

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 complaints.