

## Case Report

|                                  |                                       |
|----------------------------------|---------------------------------------|
| 1. Case Number :                 | 0240-23                               |
| 2. Advertiser :                  | Kittens                               |
| 3. Product :                     | Sex Industry                          |
| 4. Type of Advertisement/Media : | Billboard                             |
| 5. Date of Decision:             | 25-Oct-2023                           |
| 6. Decision:                     | Upheld – Not modified or discontinued |

### ISSUES RAISED

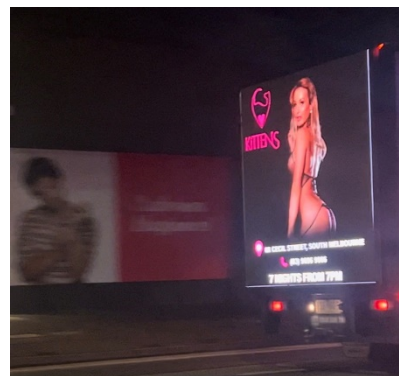
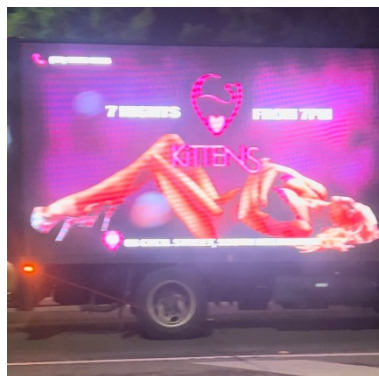
AANA Code of Ethics\2.2 Exploitative or Degrading  
AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This mobile billboard advertisement is promoting the Kittens venue.

Image 1 is on the side of the vehicle and features a woman in lingerie and heels lying on her back with her arms crossed in front of her.

Image 2 is on the rear of the vehicle and features a woman in lingerie pulling down the side of her underwear.



### THE COMPLAINT

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

*It is inappropriate to have a truck driving around with a sexualised picture of a women promoting a stripe club with couples, families, & children around.*

## 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.*

## 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 complainant's concern that the advertisement is overtly sexual and inappropriate for display in a public place.

The Panel viewed the advertisement and noted the advertiser did not respond.

**Section 2.2: Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people.**

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised. Degrading – lowering in character or quality a person or group of people.

### **Does the advertisement use sexual appeal?**

The Panel noted that both images in this advertisement feature a woman in lingerie. The Panel considered that the advertisement did contain sexual appeal.

### **Does the advertisement use sexual appeal in a manner that is exploitative?**

The Panel acknowledged that some members of the community would find the type of business with women providing sexual services for men to be exploitative. The Panel noted however, that this type of business is legally allowed to operate in the area and that it could consider only the advertising or promotion of the business that is visible to the broader community not the behaviour or service it is promoting.

### Image 1

The minority of the Panel considered that the woman is depicted in a passive pose, with her arms crossed over her chest. The minority considered that the pose appears

somewhat defensive, and the woman is not smiling or facing the camera. The minority considered that the woman does appear as an object.

The majority of the Panel considered that there was a focus on the woman's body in the advertisement, however noted that the advertised product is a venue which features scantily clad and naked women as part of its service. The majority considered that the image used in the advertisement is clearly related to the product being advertised.

The Panel considered that Image 1 did not depict sexual appeal in a manner which is exploitative of the woman or women in general.

#### Image 2

The Panel considered that there was a focus on the woman's body in the advertisement, however noted that the advertised product is a venue which features scantily clad and naked women as part of its service. The Panel considered that the woman appears confident and in control and does not appear to be an object or commodity. The Panel considered that the image used in the advertisement is clearly related to the product being advertised.

The Panel considered that Image 2 did not depict sexual appeal in a manner which is exploitative of the woman or women in general.

#### **Does the advertisement use sexual appeal in a manner that is degrading?**

#### Image 1

The minority of the Panel considered that the woman appears sad and uncomfortable and considered that the overall effect of the advertisement was a suggestion that the woman was treated as an object. The minority considered that this was a depiction which lowered the woman in character or quality, and which was degrading of the woman.

The majority of the Panel considered that the woman is not smiling, however noted that a serious or disengaged facial expression was not uncommon in advertisements for fashion or adult-orientated products. The majority considered that the depiction of the woman was relevant to the promotion of a gentleman's club and that this did not lower women in character or quality.

The Panel considered that Image 1 did not employ sexual appeal in a manner which is degrading to women.

#### Image 2

The Panel considered that the depiction of the woman was relevant to the promotion of a gentleman's club and that this did not lower women in character or quality.

The Panel considered that Image 2 did not employ sexual appeal in a manner which is degrading to women.

### **Section 2.2 conclusion**

Finding that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of an individual or group of people, the Panel determined that the advertisement did not breach Section 2.2 of the Code.

### **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 noted that both images feature a woman alone who is not engaged in sex. 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 considered that that in both images the women were wearing sexualised lingerie and 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 in both images the women were wearing lingerie, and considered that this is a depiction of partial nudity.

### **Are the issues of sex, 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 these images appear on a moving truck and are illuminated. The Panel considered that the audience would be broad and would include children.

The Panel acknowledged that the sexualised nature of the product itself may not be considered appropriate by people viewing the advertisement and noted that some members of the community would prefer that these types of businesses are not advertised, however considered that advertising them is legal and a promotion of such services is not itself a breach of the Code.

### **Image 1**

The Panel considered that the pose of the woman in the advertisement is not particularly sexualised, with her hands crossed over her chest, and is not dissimilar to those seen in fashion advertisements. The Panel considered that in the instance a

child viewed the advertisement, they would be unlikely to understand the sexual nature of the promoted business itself, but rather see a woman in lingerie. The Panel considered that the advertisement was moderately sexualised, but that the advertisement did treat the issue of sexuality with sensitivity to the relevant audience.

#### Image 2

The Panel noted that the woman is depicted pulling her underpants down at the front, and considered that while her genitals were not visible, this is an overtly sexual image.

The Panel considered that the overtly sexual image was not appropriate for the relevant broad audience which would likely include children.

#### **Section 2.4 Conclusion**

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

#### **Conclusion**

Finding that the advertisement did breach Section 2.4 of the Code, the Panel upheld the complaint.

#### **THE ADVERTISER'S RESPONSE TO DECISION**

The advertiser has not provided a response to the Panel's decision. Ad Standards will continue to work with the relevant authorities regarding this issue of non-compliance.