

## Case Report

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|----------------------------------|---------------------------------------|
| 1. Case Number :                 | 0028-24                               |
| 2. Advertiser :                  | Stocks Down Under                     |
| 3. Product :                     | Finance/Investment                    |
| 4. Type of Advertisement/Media : | Email                                 |
| 5. Date of Decision:             | 7-Feb-2024                            |
| 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 email advertisement for a stock research and advisory business contains an image of a man dressed as Santa with his hand placed on the buttock of a woman in bikini bottoms.

**Merry Christmas & Happy New Year**  
From the team at Stocks Down Under



### THE COMPLAINT

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

*Sent marketing material containing a still image of an exposed female bottom being groped by Santa with the comment "Merry Christmas & Happy New Year From the team at Stocks Down Under". I feel this has not only disrespected the dignity of women but also has the potential to perpetuate harmful stereotypes.*

## 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 concerns that the advertisement objectifies women.

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 this advertisement contains an image of a woman in bikini underwear with a man's hand on her buttock and considered that the advertisement did contain sexual appeal.

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

The Panel considered that the depiction of the woman and the focus on her buttocks was not relevant to the promotion of the business.

The Panel considered that the overall impression of the image is that the woman is an object available for the pleasure of the man dressed as Santa and/or the clients of the

business. The Panel considered that the woman's whole body and face is not shown, and that this is dehumanising and reduces the woman to her body parts.

The Panel considered that the impression of the advertisement is that the woman, and women in general, are objects or commodities who do not have authority over their sexual engagement. The Panel considered that the advertisement was exploitative.

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

Further to the reasons discussed above, the Panel considered that the suggestion that she is an object available for sexual pleasure, is a suggestion which lowers women in quality and character and the Panel considered that the advertisement is degrading of women.

## **Section 2.2 conclusion**

Finding that the advertisement did 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 breach Section 2.2 of the Code.

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

### **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 the advertisement features a sexualised interaction between the woman and the man dressed as Santa, however 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 the advertisement did contain sexuality due to the depiction of a woman in underwear with the man's hand on her buttocks.

### **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 considered that the advertisement depicts a woman in underwear and considered that some members of the community may consider this to be 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 advertisement was an email received by a subscriber of the advertiser. The Panel noted that the main service provided by the business was related to the trading of ASX-listed stocks. The Panel considered that subscribers of such a business would be predominately adults.

The Panel considered that the exploitative and degrading depiction of the woman was not relevant to the product being promoted. The Panel considered that most people subscribing to receive information about stocks would not expect to receive this kind of image. The Panel considered that the advertisement did not treat the issues of sexuality and nudity with sensitivity to the relevant audience of the business’ email subscribers.

### **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.

### **Decision**

Finding that the advertisement did breach Sections 2.2 and 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.

