

Case Report

1. Case Number :	0292-23
2. Advertiser :	Shein
3. Product :	Clothing
4. Type of Advertisement/Media :	Internet - Social - Instagram
5. Date of Decision:	7-Feb-2024
6. Decision:	Dismissed

NOTE: The complaint was dismissed as the Community Panel found that the material is not an advertisement.

ISSUES RAISED

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

DESCRIPTION OF CONTENT

On 2 December 2023, an influencer published a post on her Instagram feed, featuring four images of her posing in a top and skirt outfit made of a black netted material and which included wide pieces of yellow material across the chest and under the waist band, each with the word "WARNING" printed on it. The caption for the post reads:

"YES I come with a WARNING label [face with tears of joy emoji, warning emoji, face with tears of joy emoji, warning emoji, face with tears of joy emoji]

[camera emoji] @harryredfoxx
Mua @lauren_amy_mua
Wearing @shein_au

"... #influencer #ambassador #publishedmodel #iamhuxnbossmode
#goldcoastmodels #australia #WARNING"

THE COMPLAINT

Comments which the complainant/s made regarding the post included the following:

This advertisement sexualises a minor, presenting a young teen as a sex object for men - evidenced by the predatory/rape comments on the post (eg. One man commented: 'seductive sexy'; another wrote: 'kiss those lips make you best kamasutra ever')

I am deeply concerned about the welfare of this girl as she is connected with paedophiles in the process of advertising products for SHEIN.

THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response.

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether this post breaches the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the image sexualises a minor.

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

In the first instance, the Panel considered whether the post constituted advertising.

Is the material advertising?

The Panel noted the definition of advertising in the Code. Advertising means: "any advertising, marketing communication or material which is:

- published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer, over which the advertiser or marketer has a reasonable degree of control,
- and that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct".

The Panel noted that the brand Shein was tagged in the post, as well as a photographer and make-up artist. The Panel noted that the hashtags also included #ambassador, #publishedmodel and #iamhuxnbossmode. The Panel considered however that it was unclear who the influencer was claiming to be an ambassador for.

The Panel considered that many influencers tag brands when they are wearing clothing, but that this does not of itself mean that there is a relationship between the two, or that the brand has provided the products or arranged the post.

The Panel also considered that the wording in the post does not solely focus on the Shein brand given the other brands tagged, and there is no indication that Shein has paid or endorsed the influencer.

The Panel therefore considered that overall, it was not clear that the post was made on behalf of Shein, or that Shein had a reasonable degree of control of the post, and therefore the post did not meet the definition of “advertising” in the Code.

Conclusion

Finding that the post did not meet the definition of advertising in the Code the Panel dismissed the complaint.