

## Case Report

1. Case Number :	0026-24
2. Advertiser :	Reform Society
3. Product :	Sport and Leisure
4. Type of Advertisement/Media :	Billboard
5. Date of Decision:	21-Feb-2024
6. Decision:	Upheld – Not Modified or Discontinued

### ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This advertisement on a vehicle features an image of a naked woman from behind with her buttocks visible, and the text "Get off your a\*\* and work for it!"



### THE COMPLAINT

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

*Nudity*

### 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 the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement includes nudity.

The Panel viewed the advertisement and noted the advertiser had not provided a 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 a depiction of 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 featured an image of a naked woman from behind, however there was no indication she was engaged in sexual activity of any kind. The Panel considered 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 that the woman was naked and there was a focus on her buttocks, however considered that she was posed in a non-sexualised manner. The Panel considered that some members of the community may consider imagery of a naked woman to be sexualised and therefore 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 that the woman was not wearing underwear and that the indication of underwear is a tan line. The Panel considered that the woman in the advertisement was naked and the advertisement contained 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 considered that the woman was not posed in a sexualised manner. The Panel considered that the style of the image was artistic rather than sexualised, and that showing a body in the context of promoting a fitness studio had some relevance to the product or service being advertised.

The Panel noted however that this image is outdoors on the side of the road and is likely to be seen by a broad audience which would include children.

The Panel noted that the woman was naked and a large amount of her buttocks was visible, including her gluteal cleft. The Panel considered that many members of the community would find this to be a confronting level of nudity in a public space.

The Panel considered that nudity in the 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.