

Case Report

1. Case Number :	0043-24
2. Advertiser :	Shein
3. Product :	Clothing
4. Type of Advertisement/Media :	Internet - Social - Facebook
5. Date of Decision:	21-Feb-2024
6. Decision:	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This advertisement features an image of a sweater which states "I LICK the salt SWALLOW the tequila AND SUCK the lime", and an image of a woman wearing a pair of shorts with cutouts on the buttocks.



THE COMPLAINT

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

Sexualisation and objectification of women, and a sponsored post that just appeared on my Facebook page

THE ADVERTISER'S RESPONSE

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

We have investigated the matter internally, and conclude that this issue arose due to a technical glitch:

- *the images in the advertisement (of a black sweater) were taken from our website and pushed to the complainant randomly via Facebook's 'Dynamic Product Ad' algorithm, based on the complainant's ad preferences, browsing history etc.*
- *the images of the product in question were blocked from use in 'Dynamic Product Ad' as it was flagged as inappropriate for use in advertisements according to our internal guidelines on ads (which is broadly aligned with the Advertising Codes).*
- *we were surprised to note that the images were pushed to the complainant despite the images being blocked from our end, and our technical teams were unable to identify the cause for this anomaly.*
- *we were advised that the only way to ensure that offending images will not be inadvertently pushed through via Facebook's 'Dynamic Product Ad', is to delist the item from our website.*

We delisted the item from our website on 19 February 2024, and the now-deleted images will not appear on our ads again.

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 is inappropriately sexualised and objectifying of women.

The Panel viewed the advertisement and noted the advertiser's response.

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?

Image 1

The Panel noted that while the advertisement makes reference to 'lick', 'swallow' and 'suck', the advertisement imagery does not contain a depiction of sexual appeal and the Panel considered that most members of the community would not find the advertisement to contain sexual appeal.

Image 2

The Panel considered that the advertisement depicts the lower half of a woman in cutout shorts, that reveals a substantial portion of her buttock flesh, and that the pose of the woman also gives strong emphasis to the buttock region. The Panel therefore considered that the advertisement uses sexual appeal.

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

The Panel noted that Image 2 depicts the buttocks of a woman wearing shorts with cutout sections. The Panel noted that the advertised product is the shorts, and considered that it was reasonable for an advertiser to show the product. The Panel considered that the focus on the buttocks was relevant to the product being advertised. The Panel also considered that the advertisement did not treat the woman as an object or commodity.

The Panel considered that the advertisement did not use sexual appeal in a manner that is exploitative.

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

The Panel considered that the way the woman was depicted in the advertised product was intended to be a positive promotion of the product. The Panel considered that this representation did not lower her in character or quality.

The Panel considered that the advertisement did not use 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 was exploitative or degrading, the Panel determined that the advertisement did not breach Section 2.2 of the Code.

Section 2.4: Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The Panel noted the Practice Note for the Code states:

“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 the content of the advertisement and considered that 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 Image 1 makes a reference to ‘lick’, ‘swallow’ and ‘suck’, and considered that this was commonly known as a recognition or emphasis of sexual matters. The Panel considered that the advertisement did contain a depiction of sexuality.

The Panel noted that Image 2 depicts a woman in cutout shorts and considered that given her pose, the image did depict 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 Image 1 depicted a clothing product without any people present and did not contain nudity.

The Panel noted that Image 2 contains imagery of a woman in cutout shorts with parts of her buttocks exposed. The Panel considered this to be a depiction of partial nudity.

Is the issue of sexuality 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 the advertisement was a sponsored ad on Facebook. The Panel noted the advertiser had not provided a response and as such the targeting on the advertising was not known.

The Panel considered that Facebook requires users to be at least 13 years of age, and the relevant audience for this advertisement is likely to be people over 13 years of age. The Panel noted that this was a sponsored advertisement and as such users did not necessarily have to have followed or interacted with the advertiser’s content for the ad to be served to them.

Image 1

The Panel noted that some viewers may find the language on the sweater to contain an offensive level of sexual innuendo. However, the Panel considered that the inclusion of the words “the salt”, “the tequila” and “the lime” on the sweater, albeit in smaller font, provided additional context that the language also related to the steps commonly taken when drinking a tequila shot.

The Panel considered that the variance in font and size of the text on the sweater was indicative of the advertiser's intent to leverage the sexual connotations associated with the words 'lick', 'swallow', and 'suck'.

However the Panel also took into account the more discreet text accompanying the larger words, along with the high likelihood that the advertisement would be seen mainly by adults on social media. Consequently, The Panel decided that the use of sexuality in the advertisement was used with sensitivity for the relevant audience.

Image 2

The Panel noted that some viewers may find the level of exposure in the image to be offensive, however noted that only parts of the woman’s buttock flesh are shown, and that this was a necessary part of displaying the product for sale. Without showing the effect of the cutout sections, consumers may be misled about the quality of the product. The Panel noted that all other areas of the woman’s body were appropriately covered.

The Panel considered that while at first glance the advertisement may appear to be an inappropriate sexual image, it is clear that the clothing product is being promoted and this depiction is not inappropriate for a predominately adult audience on social media.

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 complaint.