

Case Report

1. Case Number :	0233-24
2. Advertiser :	Wear Nala Pty Ltd
3. Product :	Lingerie
4. Type of Advertisement/Media :	Outdoor
5. Date of Decision:	25-Sep-2024
6. Decision:	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This billboard advertisement features a woman wearing a maternity bra and fur jacket, holding a baby in her arms breastfeeding. The advertisement includes the text "Sorry to offend you".



THE COMPLAINT

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

Offensive content and borderline pornography

Inappropriate nudity in a public forum - a fully topless woman.

THE ADVERTISER'S RESPONSE

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

The image in this advertisement showcases a mother breastfeeding her baby, fully clothed wearing our maternity bra.

There is nothing sexual about a mother breastfeeding her child. It is the most natural, evolutionary act, and provides babies with their essential nutrients, keeping them alive and healthy. This is why, by law, Mothers are allowed to breastfeed their children wherever they need.

Further to this, it is why in the AANA Code of Ethics it specifically states that "nothing in this rule is intended to prevent ads from featuring ... breastfeeding products"

We consulted the Outdoor Media Association (OMA) prior to running this campaign and were advised the following:

"After consulting the AANA Code of Ethics, specifically Section 2.2 Exploitative or Degrading and Section 2.4 Sex, Sexuality or Nudity, the breast-feeding designs do not appear to be in breach.

Although the designs place some focus on the breasts of the women, this is considered acceptable in its current context.

Moreover, the designs do not appear to be overtly sexual.

If the concepts are for 'nala' bras creatives are justified by their relevance to the product being advertised.

Therefore, these concepts are good to go."

We ensured that in the advertisement you were unable to see any nipples. We also avoided a close up photo of the breast area.

To address the first complaint directly, there is absolutely nothing provocative about a woman breastfeeding. To classify this as 'bordering on pornography' is insulting to women everywhere. Lastly, this an important message to be sharing with our youth - that breastfeeding is acceptable whenever and wherever it is required.

And in response to the second complaint which stated the advertisement displayed a 'fully topless women', as you can see this is completely false. The model is wearing a top and the only part of her breast that is exposed is the part required to breastfeed

her baby. One could argue that many advertisements of bikinis and bras display significantly more breasts than this image displays.

Both complaints are sexist and offensive to women.

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 complainants' concerns that the advertisement depicts content which is inappropriate for the broad audience which can view the advertisement.

The Panel viewed the advertisement and noted the advertiser's 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 depictions where the depiction is not relevant to the product or service being advertised are likely to offend Prevailing Community Standards and be unacceptable.

Full frontal nudity and explicit pornographic language are not permitted. Images of genitalia are not acceptable. Images of nipples may be acceptable in advertisements for plastic surgery or art exhibits for example.

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;*

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 naked people when viewed in a public space, where the nudity is evident and the focus of the advertisement, have been found not to treat the issue of nudity with sensitivity to the relevant audience, even when the image is not sexual in nature.”

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 considered that breastfeeding is not a sexual act. The Panel considered the advertisement did 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 breastfeeding is a natural act and is not sexual. The Panel considered that the advertisement did not 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 the woman part of the woman’s breast can be seen. The Panel considered that this was partial nudity.

Is the issue 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 noted that assessing whether sexual suggestion is ‘sensitive to the relevant audience’ requires consideration of who the relevant audience is and how they are likely to react to or feel about the advertisement.

The Panel noted that the relevant audience for the outdoor advertisement would be broad and would likely include children.

The Panel noted that the brand sold maternity bras and considered that the depiction of a woman breastfeeding was relevant in the promotion of that product. The Panel considered that the level of nudity in the advertisement was consistent with the activity of breastfeeding, and the woman was not topless or exposing herself unnecessarily.

The Panel considered that the advertisement treated the issue of nudity with sensitivity to the relevant broad audience.

Section 2.4 Conclusion

The Panel found that the advertisement 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 complaints.