

Case Report

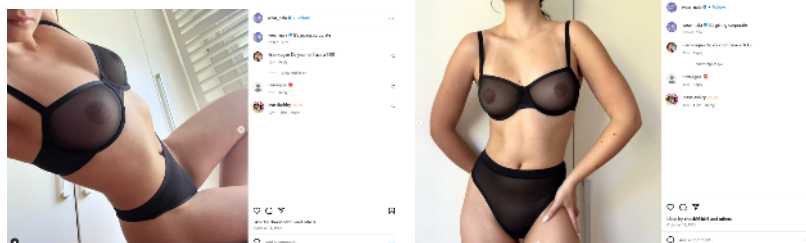
1. Case Number :	0010-25
2. Advertiser :	Wear Nala Pty Ltd
3. Product :	Lingerie
4. Type of Advertisement/Media :	Internet - Social - Instagram
5. Date of Decision:	22-Jan-2025
6. Decision:	Upheld – Not Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This Instagram post on the @wear_nala Instagram page features a woman wearing black underwear and a black sheer bra. Her nipples are visible. The post features the caption "It's giving corporate".



THE COMPLAINT

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

Nipple exposure - Nudity

THE ADVERTISER'S RESPONSE

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

Our product range includes products that are some degree sheer, given they are mesh. These products are extremely popular. We never run paid advertising with these products as we are unable to control who these are seen by. However, we do post the

products on our organic social pages. These are only viewed by our followers. It's is entirely up to someone's discretion if they would like to follow us, so we understand that if it's someone's preference not to view such material, they will choose not to follow us.

We have reviewed the relevant parts of the Code (section 2).

This image is of a consenting adult over the age of 18 and is not exploitative or degrading.

Per your guidelines, we would define this as "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", given this has only been posted to instagram account which is followed by people who have chosen to follow us and there is an expected interest in underwear and our brand.

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 concern that the advertisement depicts a high level of nudity.

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:

"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.

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 woman in the advertisement was not interacting with any other person, and was not engaged in sexually stimulating behaviour. 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 the pose of the woman in the first image, which her legs slightly apart, with the camera angle from below, was sexualised. The Panel considered that the advertisement contained 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 advertisement depicted a woman in lingerie, and this was a depiction of 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 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 this was a post on the advertiser's own page and was not a sponsored post. The Panel noted the advertiser's response that their audience would be people who followed the brand. The Panel considered that Instagram can serve

non-sponsored posts to people who don't follow a page, as a suggestion for content they may be interested in, or as a notification that a friend had interacted with the post. The Panel considered that the audience for the post would be broader than just followers of the brand, and would include people with friends who follow the brand or people who had interacted with similar accounts. The Panel noted that Instagram was a medium restricted to people over the age of 13, and considered the relevant audience for the post would be Instagram users over 13 years of age.

The Panel noted that Instagram's community standards require female nipples to be covered "except in a breastfeeding, mastectomy, medical, health or act of protest context" (<https://transparency.meta.com/en-gb/policies/community-standards/adult-nudity-sexual-activity/>). The Panel noted that in this image the woman's breasts are covered by mesh material, but are still visible.

The Panel considered that most Instagram users would expect posts on the platform to comply with the platform's community standards. The Panel considered that the advertisement did not treat the issue of nudity with sensitivity to the audience of Instagram users.

Section 2.4 Conclusion

The Panel found that the advertisement did breach Section 2.4 of the Code.

Conclusion

Finding that the advertisement breached Section 2.4 of the Code the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DECISION

The advertiser did not provide a response to the Panel's decision.