

COMPLAINT NUMBER	17/368
COMPLAINANT	G Phillips and others
ADVERTISER	Hanes Brands Inc
ADVERTISEMENT	Hanes Brands Inc – Berlei Bra, Television
DATE OF MEETING	14 November 2017
OUTCOME	Not Upheld

SUMMARY

The television advertisement for Berlei Bras showed various scenarios to illustrate the uncomfortable lengths some women go to in managing their breasts. Some scenes depicted women in ill-fitting and uncomfortable bras, others using tape or nipple shields and one woman was shown running in a bra with little support. The advertisement says, in part: “We’ve been suppressed, bound, put on show, hidden away, lumped together, forced apart, exposed. No more. It’s time to be kind. Introducing Womankind.” The advertisement concludes with women wearing the Berlei bra comfortably.

Three Complainant’s shared similar views the advertisement showed naked breasts, was pornographic in nature and both G. Phillips and L. Dinnill said it played at a time when it could be seen by children.

The Advertiser responded that the level of nudity present in the advertisement was mild and presented a subject matter with an appropriate level of sensitivity, to draw attention to a common problem that impacts all females in a humorous way. The Advertiser also said the advertisement was placed with the appropriate level of care.

The Complaints Board said the advertisement illustrated realistic situations that women were likely have experienced and the scenes showing near naked breasts representations were not salacious or sexual but employed a level of humour. The Complaints Board said the advertisement was unlikely to cause serious or widespread offence and ruled it was not in breach of Rule 4 or Rule 5 of the Code of Ethics.

The Complaints Board also found that as the advertisement would not play during children’s programming and was unlikely to play when children were a significant proportion of the viewing audience, it had been placed responsibly and was not in breach of Basic Principle 4 of the Code of Ethics.

The Complaints Board ruled the complaint was Not Upheld.

[No further action required]

Please note this headnote does not form part of the Decision.

COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the advertisement with reference to Basic Principle 4 and Rules 4 and 5 of the Code of Ethics. This required the Complaints Board to consider whether the advertisement contained anything which clearly offends against generally prevailing community standards or was likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services) and whether it had been prepared with a due sense of social responsibility to consumers and society.

The Complaints Board ruled the complaint was Not Upheld.

The Complaints

Three Complainants shared similar views the advertisement showed naked breasts, was pornographic in nature and both G. Phillips and L. Dinnill said it played at a time when it could be seen by children.

G. Phillips said they saw the advertisement at 3.14pm and said, in part: “this advertisement displays too many breast[s] ... its pretty full on... it is unhelpful to have this amount of breast exposed on tv... especially at this time of day.”

K. Kister said, in part: “this ad for women’s lingerie is essentially soft porn. While it does not show actual nipple, it clearly shows otherwise entire naked breasts, movement of breasts under tight clothing and hands fondling naked breasts.”

Response from Advertiser, Hanes Brands Inc

The Complaints Board noted the Advertiser’s description of the advertisement subject to complaint stating, in part: “the advertisement in question features multiple and varied shots of women’s cleavage being fitted into ill-fitting and uncomfortable bras. The ad serves to highlight some of the extreme lengths women go to in order to fit into a bra that may be trendy or fashionable but is not comfortable or supportive. Also spliced in are occasional vintage shots of older types of uncomfortable bras.”

The Advertiser responded to the concerns of the Complainant’s about the exposure of breasts in the advertisement stating, in part: “...in most cases the breasts are covered, however in some instances the breasts are seen but the nipple is always censored. Importantly none of the shots of breasts used in the advertisement are glamourised or sexualised in any way, in fact they are depicted in an unglamorous and harsh light in order to highlight the discomfort associated with fitting breasts into an ill-fitting bra. Accordingly, in our view the level of nudity present in the advertisement is mild at most, and treats the subject matter with an appropriate level of sensitivity to the relevant audience. Most reasonable consumers in our view will recognise that the intention of the ad is not to excite viewers with inappropriate sexual imagery, but rather, to draw attention to a common problem that impacts all females in a frank but light-hearted manner.”

Regarding the concerns of Complainants, G. Phillips and L. Dinnill, the advertisement aired at a time that was inappropriate, the Complaints Board noted the Advertiser responded that “the advertisement was issued with a ‘GXC’ [General Except Children] rating by CAB and was shown in timeslots appropriate to that rating, outside of children’s programming.”

Response from Media, Commercial Approvals Bureau

The Complaints Board noted the response from the Commercial Approvals Bureau which said, in part: “under CAB’s internal procedures, the commercial is categorised as a Retail - Clothing advertisement and it’s GXC rating explicitly prevents it from playing during children’s programming.”

The commercial advertises brassieres, a product that inextricably relates to the human body. In its course, the commercial shows the stresses and discomforts of the body in the area of effect: adult breasts. The lead message of the commercial is that stress and discomfort should not be de rigueur conditions, and that bodies deserve care and comfort.

The commercial played during appropriate evening programming, focussed on the audiences for whom the purchase of brassieres and support garments are a fact of life. The programmes included: Real Housewives of New York, Home & Away and TV One post-7pm.”

Complaints Board Discussion

The Complaints Board noted the concerns of the Complainants the advertisement showed inappropriate images of breasts and played at times when it could be seen by children.

The Complaints Board considered the likely consumer take-out of the advertisement. It noted the focus was on the uncomfortable nature of some bras and took into account the varied depictions presented. In its view, most people would interpret the advertisement illustrated realistic situations that women were likely have experienced. While a few scenes showed near naked breasts, the Complaints Board said the representations were not salacious or sexual and noted the advertisement employed humour to illustrate situations that women experience which was supported by the onscreen text. The Complaints Board noted the uncomfortable and possibly confronting nature of the advertisement was presented as a juxtaposition to the comfortable bra being promoted.

With regard to a single scene which showed a woman with only flesh colored nipple shields, the Complaints Board said the scene was fleeting and when taken in conjunction with the overall impression and message of the advertisement, it did not reach the threshold to cause serious offence.

Therefore, the Complaints Board said none of the scenes presented were likely to cause serious or widespread offence or offend against community standards and taking into account prevailing community standards and the context, medium, audience and product being advertised and ruled it was not in breach of Rule 4 or Rule 5 of the Code of Ethics.

The Complaints Board then considered whether the placement of the advertisement was an issue as raised by two of the Complainants. It noted the advertisement had been afforded a GXC Rating (General Except Children) which meant the advertisement would not play during children’s programming and was unlikely to play when children were a significant proportion of the viewing audience.

The Complaints Board said the advertisement had been shown in accordance with the rating and at an appropriate time for the Advertiser’s target audience of 35-55 year old women. Therefore, the Complaints Board said the placement of the advertisement met the requisite standard of social responsibility and was not in breach of Basic Principle 4 of the Code of Ethics.

Accordingly, the Complaints Board ruled the complaint was Not Upheld.

Decision: Complaint **Not Upheld**

DESCRIPTION OF ADVERTISEMENT

The television advertisement for Berlei Bras showed various scenarios to illustrate the uncomfortable lengths some people go to in managing their breasts. Some scenes depicted in ill-fitting bras, others using tape or nipple shields and one woman was shown running in a bra with little support. The advertisement says, in part: "We've been suppressed, bound, put on show, hidden away, lumped together, forced apart, exposed. No more. It's time to be kind. Introducing Womankind." The advertisement concludes with women wearing the Berlei bra comfortably.

COMPLAINT FROM G PHILLIPS

2017-10-04

3:14pm

I feel as though this advertisement displays too many breast...its pretty full on. As a person working with young people I come across youth struggling with porn addictions everyday. It is totally unnecessary and unhelp having this amount of breast exposed on tv...especially on freeview tv at this time of day. Please I ask you to review this add and consider who is seeing it and how it may be impacting them. Both NZ young males and females are being negatively impacted by the constant stream of naked skin displayed on tv all the time and this add is just one example.

COMPLAINT FROM L DENNILL

2017-10-03

17h30 and 17h50

This advert DURING FAMILY VIEWING TIME shows naked breast.

COMPLAINT FROM K FISTER

2017-10-11

7:40-7:45PM

This ad for women's lingerie is essentially soft porn. While it doesn't show actual nipple, it clearly shows otherwise entire naked breasts, movement of breasts under tight clothing and hands fondling naked breasts.

CODE OF ETHICS

Basic Principle 4: All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

Rule 4: Decency - Advertisements should not contain anything which clearly offends against generally prevailing community standards taking into account the context, medium, audience and product (including services).

Rule 5: Offensiveness - Advertisements should not contain anything which in the light of generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services).

RESPONSE FROM ADVERTISER,- HANES BRANDS INC

We refer to the letter received on 17 Oct 2017 in relation to the complaints reference 17/368. Hanes Australia Pty Ltd (formerly Pacific Brands Holdings Pty Ltd) owns the Berlei brand. Berlei is an intimates brand that manufactures, markets and retails bras and underwear for women.

We have considered the complaints and the advertisement in question in light of the provisions of the ASA Advertising Code of Ethics.

We note that the nature of the complaint relates specifically to the concern that the advertisement in question contains inappropriate levels of nudity. We have carefully considered the Code, and have assessed its provisions against the content of this advertisement. We submit that the advertisement does not breach the Code on any of the grounds set out in the same.

Basic principle 4 of the Code provides that “*All advertisements should be prepared with a due sense of social responsibility to consumers and to society.*”

The advertisement in question features multiple and varied shots of women’s cleavage being fitted into ill-fitting and uncomfortable bras. The ad serves to highlight some of the extreme lengths women go to in order to fit into a bra that may be trendy or fashionable but is not comfortable or supportive. Also spliced in are occasional vintage shots of older types of uncomfortable bras.

In most cases the breasts are covered, however in some instances the breasts are seen but the nipple is always censored. Importantly none of the shots of breasts used in the advertisement are glamourised or sexualised in any way, in fact they are depicted in an unglamorous and harsh light in order to highlight the discomfort associated with fitting breasts into an ill-fitting bra. Accordingly, in our view the level of nudity present in the advertisement is mild at most, and treats the subject matter with an appropriate level of sensitivity to the relevant audience. Most reasonable consumers in our view will recognise that the intention of the ad is not to excite viewers with inappropriate sexual imagery, but rather, to draw attention to a common problem that impacts all females in a frank but light-hearted manner.

We are in the business of selling bras and feel that this advertisement is well within the lines of social responsibility – and is relevant to the product and its audience.

We note that the advertisement was issued with a “GXC” rating by CAB and was shown in timeslots appropriate to that rating, outside of children’s programming.

On the above bases, we submit that the advertisement does not breach basic principle 4 of the Code. Further, we submit that the advertisement does not breach any other provisions of the Code, specifically rule 4 and 5.

Contact person for advertising complaints	Zoe Hayes
Name and contact at creative agency	Kelly Spence
Name and contact at media agency	Chris Whitnall
A basic, neutral description of the advertisement	A series of shots of women in ill fitting or uncomfortable bras. It then introduces Berlei’s new bra womankind as an alternative to this discomfort.
Date advertisement began	2 nd Oct 17
Where the advertisement appeared (all	TV, Youtube

locations e.g. TV, Billboard, Newspaper Website	
Is the advertisement still accessible – where and until when?	Youtube
Who is the product / brand target audience?	Women 35-55yrs
For Broadcast advertisements:	
CAB key number and rating	Key number: PAC0004_NZ_30_S CAD Rating: GXC Key number: PAC0004NZ_15_S CAD Rating: GXC
For Digital advertisements:	
What platform tools have you used to target your audience?	Youtube

RESPONSE FROM MEDIA - COMMERICAL APPROVALS BUREAU

HANESBRAND TELEVISION ADVERTISEMENT

COMPLAINT: 17/368

KEY: PAC000430SN

RATING:

GXC

We have been asked to respond to this complaint under the following codes:
Code of Ethics – Basic Principle 4, Rule 4, Rule 5;

CAB approved this commercial on 30/08/17 with a GXC classification. Under CAB's internal procedures, the commercial is categorised as a Retail - Clothing advertisement and it's GXC rating explicitly prevents it from playing during children's programming.

The commercial advertises brassieres, a product that inextricably relates to the human body. In its course, the commercial shows the stresses and discomforts of the body in the area of effect: adult breasts. The lead message of the commercial is that stress and discomfort should not be de rigueur conditions, and that bodies deserve care and comfort.

The commercial played during appropriate evening programming, focussed on the audiences for whom the purchase of brassieres and support garments are a fact of life. The programmes included: Real Housewives of New York, Home & Away and TV One post-7pm.

The advertiser has presented a clear and important message in the promotion of their product, with sensitivities to their consumer-base and audience. In all respects they have met their due social responsibilities and CAB believes the complaint should not be upheld.