

COMPLAINT NUMBER	18/108
COMPLAINANT	A Arulandu + Duplicates
ADVERTISER	Hanes Australia Pty Ltd
ADVERTISEMENT	Berlei, Television
DATE OF MEETING	12 June 2018
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 including 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 enjoying wearing the Berlei bra.

The Complaints Board noted the Complainants' concerns the advertisement was offensive due to its content, played at a time that was inappropriate where children could see it, objectified women, was sexually suggestive and displayed a double standard of acceptability.

The Complaints Board noted the response from the Advertiser and the Media which said the advertisement depicted breasts in an unglamorous and truthful way to highlight the discomfort of ill-fitting bras and played in accordance with its 'GXC' rating.

The Complaints Board took into account its findings in previous Decision (17/368) and said the advertisement played in accordance with its rating and did not offend against generally prevailing community standards. The Board agreed the advertisement was unlikely to cause serious or widespread offence to most people and was not in breach of Rule 4 or Rule 5 of the Code of Ethics.

The Complaints Board said there was nothing in the advertisement which degraded or exploited women and there was nothing which could be considered to objectify women when considered in context noting female empowerment was a key theme of the advertisement. The Complaints Board ruled the advertisement was not in breach of Basic Principle 5 of the Code for People in Advertising.

The Complaints Board said the advertisement had been prepared with a due sense of social responsibility to consumers and society and 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 and Basic Principle 5 of the Code for People in Advertising.

Basic Principle 4 and Rules 4 and 5 of the Code of Ethics 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.

Basic Principle 5 of the Code of Advertising required the Complaints Board to consider whether the advertisements employed sexual appeal in a manner which is exploitative and degrading of any individual or group of people in society to promote the sale of products or services. In particular, people should not be portrayed in a manner which uses sexual appeal simply to draw attention to an unrelated product. Children must not be portrayed in a manner which treats them as objects of sexual appeal.

The Complaints Board ruled the complaint was Not Upheld.

The Complaints

Nine Complainants, A. Arulandu, A. Selfridge, D. Rose, I. Lawson, M. Houghton, S. Gallente, V. Dempsey, V. Lilley and V. Rolls, raised concerns about the Berlei television advertisement.

The Complainants said the advertisement was offensive. The Complainants said the advertisement was gratuitous, including that it showed breasts jiggling and depicted nipples being covered which was unnecessary alongside slow motion shots of bouncing breasts. The Complainants were concerned the advertisement showed numerous close ups of breasts and cleavage in a way that was sexualised and, in the case of S. Gallente and D. Rose, was pornographic.

The majority said the advertisement was not appropriate to be played when children could be amongst the viewing audience and they were concerned about the placement of the advertisement in family viewing times.

Some of the Complainants were concerned the advertisement objectified and degraded women and was sexually provoking.

Complainants A. Arulandu and I. Lawson were concerned about the double standard between women and men underwear advertising noting that it was unlikely to have a similar advertisement for men.

D. Rose was of the view advertisements for bras should be restricted to direct mail advertising.

Response from Advertiser, Berlei

The Advertiser responded to the Complainants' concerns with the advertisement. The Advertiser said, in part, "the advertisement in question features multiple and varied shots of women's cleavage being fitted into ill-fitting and uncomfortable bras. The advertisement 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 depicted in an exploitive or degrading manner or have been glamourised or sexualised in any way. To the contrary, the images of breasts are depicted in an unglamorous and truthful light in order to highlight the discomfort women often preserve with by fitting their breasts into an ill-fitting bra. 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 advertisement 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."

Response from Commercial Approvals Bureau

The response from the Commercial Approvals Bureau said, in part: "CAB approved this Berlei commercial on 30/08/17 with a GXC classification.

The GXC classification specifically prohibits the commercial from airing during children's programming, ensuring that it reaches only an appropriate audience.

In complaint 17/368 the Board found that this commercial was neither salacious nor sexual in its representation of bodies or product, and a Not Upheld decision was reached.

The current complaint problematizes that decision with a belief that the commercial is objectifying (presumably sexually objectifying).

The essence of the Boards decision in 17/368 still stands however. Material that is neither salacious nor sexual in nature can't logically perform the function of sexual objectification."

Complaints Board Discussion

The Complaints Board noted the Complainants' concerns the advertisement was offensive due to its content, played at a time that was inappropriate where children could see it, objectified women, was sexually suggestive and displayed a double standard of acceptability.

The Complaints Board noted the response from the Advertiser and the Media which said the advertisement depicted breasts in an unglamorous and truthful way to highlight the discomfort of ill-fitting bras and played in accordance with its 'GXC' rating.

The Complaints Board noted Decision (17/368) where it had considered the same advertisement and similar issues about the content and placement of the advertisement where children could see it. The Complaints Board noted that Decision said, in part:

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."

The Complaints Board said the above precedent applied to the complaints before it, noting the advertisement played in accordance with its 'GXC' rating in the complaints submitted, including programmes such as *Survivor* and *Shortland Street*.

The Complaints Board also confirmed its previous findings relating to the content of the advertisement noting that while some Complainants were offended by the fleeting images of near naked breasts, they were not sexual and illustrated realistic scenarios experienced by women. The Complaints Board said there was nothing pornographic in the advertisement and nothing that offended against generally prevailing community standards taking into account the context, medium, audience and product being advertised.

The Complaints Board ruled the advertisement did not offend against generally prevailing community standards and was unlikely to cause serious or widespread offence to most people noting its placement. The Complaints Board said the advertisement was not in breach of Rule 4 or Rule 5 of the Code of Ethics.

The Complaints Board then considered the new issues raised about whether the advertisement objectified women by employing sexual appeal in a manner which was exploitative and degrading and presented an unacceptable double standard.

The Complaints Board acknowledged a double standard still existed with regard to gender portrayal and it was the role of the Complaints Board to reflect existing and accepted societal standards, not set them.

While it appreciated the concerns of the Complainants, that it was unlikely a similar advertisement featuring men's underwear would be acceptable, the Complaints Board said the the close-up images of ill-fitting bras were mitigated by a humour ous and the overall context of the advertisement.

Regarding the concerns about objectification of women in the advertisement, the Complaints Board noted the key message focused on being kind to yourself by purchasing a comfortable bra. It said female empowerment was a theme of the advertisement noting the statement: "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 Complaints Board said there was nothing in the advertisement which degraded or exploited women and there was nothing which could be considered to objectify women when considered in context.

The Complaints Board ruled the advertisement was not in breach of Basic Principle 5 of the Code for People in Advertising.

Summary

The Complaints Board took into account its findings in previous Decision (17/368) and said the advertisement played in accordance with its rating and did not offend against generally prevailing community standards and was unlikely to cause serious or widespread offence to most and was not in beach of Rule 4 or Rule 5 of the Code of Ethics.

The Complaints Board said there was nothing in the advertisement which degraded or exploited women and there was nothing which could be considered to objectify women when considered in context noting female empowerment was a key theme of the advertisement. The Complaints Board ruled the advertisement was not in breach of Basic Principle 5 of the Code for People in Advertising.

On consideration of its findings, the Complaints Board said the advertisement had been prepared with a due sense of social responsibility to consumers and society and Basic Principle 4 of the Code of Ethics.

Accordingly, the Complaints Board ruled the complaint was 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 A ARULANDU

As a woman, I find the latest Berlei bra tv advert very offensive. I think the amount of skin and slow motion shots adds to the objectification of women on mainstream tv. I also don't think it is appropriate for younger audiences. I believe there are other ways to portray the same message, for example you don't see the same ads for men's underwear (not that I am suggesting there should be).

COMPLAINT FROM A SELFRIDGE

I am no prude but I am the mother of a young boy. This advert is absolutely inappropriate and should not be on the TV let alone at teatime. I get the gist, bras are uncomfortable but we do not need to be subjected to the lengths women may or may not go to get our bust to stay put. Some of the images are actually quite graphic and just not necessary. I love Berlei bras, I own some and I have never bought one after seeing an advert that showed boobs being taped up, jiggling in a nightclub or seeing nipples being covered with plasters.

COMPLAINT FROM D ROSE

This advert is not appropriate to be shown before adult tv time. It show full breasts and is as bad as introducing porn to boys at a young age.

Also telling young woman and men that that is how boobs should be is not ok.

Bra advertisement should be restricted to print and directly mailed to subscribed woman. Not up and out in public for all to gander at. No wonder woman are left feeling inadequate.

COMPLAINT FROM I LAWSON

The advertisement uses unnecessary graphic breast scenes, breasts being taped in place, breasts bouncing around extremely. I find it unnecessary, offensive and most importantly inappropriate to expose children too at 7.23 in the early evening. It was unnecessarily graphic and in context I have no doubt if we were promoting Jock straps and exposing and bouncing penis's around to this extreme it would immediately be deemed offensive.

COMPLAINT FROM M HOUGHTON

The advert for womankind bras is totally unsuitable for a young audience as per the screening time. We watch this show on demand and when watching it this way before the start and at each ad break the same advert came on. It depicts breasts and bras as being uncomfortable and a burden. This is not what I want my pre pubescent daughters to see. There were also numerous close ups of cleavage in a way which was overtly sexualized - again totally inappropriate content for an advert placed in a family entertainment show.

COMPLAINT FROM S GALLENTÉ

The ad features close ups of breasts being made to look almost pornographic

COMPLAINT FROM V DEMPSEY

This ad shows way too much boob! It is not decent especially during a family show like Survivor. One woman is wearing only small things covering only her nipples.

COMPLAINT FROM V LILLEY

I think this advert is sexually provoking, degrading and misleading. It portrays that we have to have our breasts harnessed in a certain way to be attractive. Children watching this were mesmerized and thought it was disgusting. I am a liberal women but this has gone too far and I wont be watching Channel 2 until this has been taken off. Can you please let me know when it has.

COMPLAINT FROM V ROLLS

Terrible and degrading. I have kids who were watching nz survivor and next minute this terrible disgusting and degrading ad comes on about bras ??? Actually not sure what the whole point of the ad is. Hate it

CODES OF PRACTICE**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).

CODE FOR PEOPLE IN ADVERTISING

Basic Principle 5: Advertisements should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people in society to promote the sale of products or services. In particular people should not be portrayed in a manner which uses sexual appeal simply to draw attention to an unrelated product. Children must not be portrayed in a manner which treats them as objects of sexual appeal.

RESPONSE FROM ADVERTISER, HANES AUSTRALIA PT LTD - BERLEI

We refer to the letter received on 17 May 2018 in relation to the complaints reference 18/108. 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 reference by the NZ Advertising Standards Authority to the following provisions of the NZ Advertising Standards Authority Code of Ethics (**Code of Ethics**) - Basic Principle 4, Rule 4, Rule 5 and NZ Advertising Standards Authority Code for People in Advertising (**Code in Advertising**) - Basic Principle 5.

We note that the nature of the complaint relates specifically to the concern that the advertisement in question offends against generally prevailing community standards. We have carefully considered the Code of Ethics and Code in Advertising and assessed the relevant provisions against the content of this advertisement. We submit that the advertisement does not breach the Code of Ethics or the Code in Advertising on any of the grounds set out below.

Section 4.4 of the Code of Ethics provides that *"Advertisements should not contain anything which clearly offends against generally prevailing community standards taking into account the context, medium, audience and product (including services)."*

Section 5.5 of the Code of Ethics provides that *"Advertisements should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people in society to promote the sale of products or services. In particular people should not be portrayed in a manner which uses sexual appeal simply to draw attention to an unrelated product. Children must not be portrayed in a manner which treats them as objects of sexual appeal."*

Section 5 of the Code in Advertising provides that *"Advertisements should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people in society to promote the sale of products or services. In particular people should not be*

portrayed in a manner which uses sexual appeal simply to draw attention to an unrelated product. Children must not be portrayed in a manner which treats them as objects of sexual appeal."

The advertisement in question features multiple and varied shots of women's cleavage being fitted into ill-fitting and uncomfortable bras. The advertisement 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 depicted in an exploitive or degrading manner or have been glamourised or sexualised in any way. To the contrary, the images of breasts are depicted in an unglamorous and truthful light in order to highlight the discomfort women often preserve with by fitting their breasts into an ill-fitting bra. 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 advertisement 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 provision 4.4 or 5.5 of the Code of Ethics or provision 5 of the Code in Advertising. Further, we submit that the advertisement does not breach any other provisions of the Code of Ethics or Code in Advertising.

Contact person for advertising complaints	Chontelle'Clark'
Name and contact at creative agency	Shannon'Duhig,'The'Monkeys
Name and contact at media agency	Elsa'Hedmann,'OMD
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	15th April 2018

began	
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	TV, Youtube
Is the advertisement still accessible – where and until when?	Yes, until the 5th June 2018 It will be visible TVNZ, Mediaworks, Sky/Prime
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	As per following link https://www.dropbox.com/sh/m3ta235tcoedyro/AAA71VrPa40b9w_sKx0UYG7ua
Who is the product / brand target audience?	Women 35>55yrs
Clear substantiation on claims that are challenged by the complainant.	Enclosed
The response from the advertiser is included in the published decision. The ASA is not able	

to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.	
For Broadcast advertisements:	
A copy of the script	Enclosed'
A copy of the media schedule and spot list (Please remove all financial information)	Enclosed
CAB key number and rating	PAC0020_15SNZ'-'GXC'-'80302018' PAC0020_15W18NZ'-'GXC'-'80302017' PAC0020_30W18NZ'-'GXC'W'80302016'
For Digital advertisements:	
What platform tools have you used to target your audience?	Youtube

RESPONSE FROM MEDIA, CAB**HANESBRAND TELEVISION ADVERTISEMENT****COMPLAINT: 18/108 KEY: PAC00020 30 WNZ 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, Code for People in Advertising – Basic Principle 5

CAB approved this Berlei commercial on 30/08/17 with a GXC classification.

The GXC classification specifically prohibits the commercial from airing during children's programming, ensuring that it reaches only an appropriate audience.

In complaint 17/368 the Board found that this commercial was neither salacious nor sexual in its representation of bodies or product, and a Not Upheld decision was reached.

The current complaint problematizes that decision with a belief that the commercial is objectifying (presumably sexually objectifying).

The essence of the Boards decision in 17/368 still stands however. Material that is neither salacious nor sexual in nature can't logically perform the function of sexual objectification.

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 days of receipt of this decision.