

COMPLAINT NUMBER	21/049
COMPLAINT ON BEHALF OF	Stop Demand Foundation
ADVERTISER	With J�an
ADVERTISEMENT	With J�an - Carla Corset website and Instagram
DATE OF MEETING	9 March 2021
OUTCOME	Upheld Advertisement to be removed

Summary of the Complaints Board Decision

The Complaints Board upheld a complaint about the website and Instagram advertisements for the With J an clothing company. The Board said the advertisements contained imagery that was indecent and gratuitous and had no relevance to the product being advertised.

Advertisement

The With J an website and Instagram advertisements promoting the Carla Corset showed a photo of a model wearing the Carla Corset while sitting, clothed, in an empty bathtub. On the wall next to the tub, there were posters of a naked woman. One of the photos showed the woman sitting with her knees up, exposing her genital area.

Summary of the Complaint

The Complainant, Stop Demand Foundation, was concerned the background photos in the advertisements were overtly sexual and had no relevance to the product being advertised.

Issues Raised:

- Social responsibility
- Decency and offensiveness
- Exploitation of children and young people

Summary of the Advertiser's Response

Legal counsel for the Advertiser defended the advertisements and denied any misconduct or breach of any legislation. They said they had no further comment to make.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

Advertising Standards Code

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(c) Decency and Offensiveness: Advertisements must not contain anything that is indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt, abuse or ridicule.

Complaints Board Discussion

The Chair noted that the Complaints Board's role was to consider whether there had been a breach of the Advertising Standards Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised.

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was the image promotes the Carla Corset item of clothing and the model is posing in front of some explicit photos of a nude woman.

Did the advertisements contain anything that is indecent, or exploitative or degrading or likely to cause harm or serious or widespread offence?

The Board said the imagery in the background of the photo was explicit, indecent and gratuitous. It had no relevance to the product being advertised. The Complaints Board said the advertisements were in breach of Rule 1(c) of the Advertising Standards Code.

Are the advertisements socially responsible?

The Complaints Board said the advertisements were not socially responsible, taking into account context, medium, audience and product and were in breach of Principle 1 and Rule 1(c) of the Advertising Standards Code.

The Complaints Board said that given the complaint was upheld, and in the absence of information confirming the age of the model, it declined to adjudicate the complaint on Rule 1(d) Exploitation of Children and Young People. That rule provides that advertisements must not portray or represent anyone who is, or appears to be, under 18 years old in any way that is exploitative or degrading or inappropriate for their age.

Outcome

The Complaints Board ruled the complaint was **Upheld**.

Advertisement to be removed.

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 calendar days of receipt of this decision.

APPENDICES

1. Complaint
 2. Response from Advertiser
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Appendix 1

COMPLAINT

Stop Demand submits that With J an's Carla Corset advertisement breaches Principle 1, Rule 1(c) of the Code, namely that the ad has not been prepared and placed with a due sense of social responsibility to consumers and to society, as regard to standards of decency and offensiveness.

We have no issue with the live model or the corset in the ad. Our complaint relates solely to the background montage of images that we submit are overtly sexual, given the extent of nudity, provocative sexualised posing, spreading of legs and the display of full genitalia of a woman (understood to be dated images of Pamela Anderson).

Further, the background montage of images has no relevance to the product or service being advertised, namely a woman's corset. The background montage is, in our submission, gratuitous.

Background: On 17 December 2020, Stop Demand's attention was drawn to the ad by a New Zealand customer of the Australian clothing brand, With J an. On 17 December 2020 the advertisement came into her 'Instagram story' feed (typically stays up for only 24 hours). She then saw the ad had been posted on With J an's permanent Instagram photos on 03 December 2020, and was on With J an's website.

The ad remains up on both With J an's website and Instagram pages https://withJ an.com.au/search?type=product%2Carticle%2Cpage%2Ccollection&q=carla%20corset* and <https://www.instagram.com/p/CIUuAsSDWe9/?igshid=12qcdf6bfzuuk>

[...]

Appendix 2

RESPONSE FROM ADVERTISER, WITH J AN

Legal counsel for the advertiser denied any misconduct or breach of any legislative instrument in relation to its products or advertising. They said they had no further comment to make.