

<b>COMPLAINT NUMBER</b>	21/494
<b>ADVERTISER</b>	Universal Music New Zealand
<b>ADVERTISEMENT</b>	Lorde album - Solar Power, Poster
<b>DATE OF MEETING</b>	9 November 2021
<b>OUTCOME</b>	Not Upheld No Further Action Required

### **Summary of the Complaints Board Decision**

The Complaints Board did not uphold a complaint about a poster advertising Lorde's new album, Solar Power, which contained an image of Ella Yelich-O'Connor's bare legs and bottom as she leaps in the air. The Board said the image of Lorde on the album cover was stylised and not gratuitous and did not reach the threshold to cause serious or widespread offence.

### **Advertisement**

The poster for the Lorde album Solar Power was displayed at several outdoor locations in the Auckland area. The poster is an image of Lorde leaping the air, taken from ground level looking upwards. It shows her bare legs and bottom. Lorde is wearing a yellow long-sleeved top. Her head, right arm and right side can also be seen. The text says: "The long awaited third album Solar Power by Lorde".

### **Summary of the Complaint**

The Complainant was concerned the image was graphic and it was inappropriate to have a bum on display where children could view it.

### **Issues Raised:**

- Social responsibility
- Decency and offensiveness

### **Summary of the Advertiser's Response**

The Advertiser said the poster is an enlarged version of the cover of the album the advertisement promotes. It is a representation of the natural world the album celebrates. The image is not graphic. Ella, the subject of the photograph is wearing a bikini. The imagery promotes body positivity and the artist had control over the image she chose to represent her album.

### **Summary of the Media Response**

The Media said the image had been used widely and had not received any other complaints.

## 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.

### Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 18/004 which was Not Upheld and 21/376 which was No Grounds to Proceed.

The full versions of these decisions can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

**Decision 18/004** concerned a poster advertisement for Service Denim stores which showed a woman straddling a motorbike from behind wearing cut off denim shorts. The Complainant was concerned the image depicted a woman's body for the sexual servicing of men.

The Complaints Board did not uphold the complaint and said the advertisement did not portray the woman in a way that was exploitative and degrading and was unlikely to cause serious or widespread offence to most people. The Board said a certain degree of sexuality was permissible in advertisements for jeans.

**Decision 21/376** concerned website banner advertisement for JB Hi-Fi which featured Lorde's Solar Power album cover with the same image as the subject of this complaint.

The Chair of the Complaints Board ruled the complaint which said the image was objectifying women had no grounds to proceed. This is because the Chair said the average consumer would be unlikely to consider the image to be objectifying the artist given that Lorde was promoting her music using this creative.

### 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, which in this case is:
  - Context: A new album and tour from Lorde
  - Medium: Phantom Billsticker framed poster on the side of a shop
  - Audience: Unrestricted via an outdoor medium
  - Product: Lorde's Solar Power album

*Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement was a promotion for Lorde's new album, Solar Power.

*Does the advertisement contain anything that is indecent or likely to cause serious or widespread offence?*

The majority of the Complaints Board said that while the image of Lorde's bare legs and bottom was provocative, the image appeared to be stylised to obscure any intimate details. The Board noted the Advertiser said the artist was wearing a bikini, however the Board said this was not apparent in the image.

The majority of the Complaints Board said there was a high consumer awareness about Lorde as an artist in New Zealand and most consumers would view the advertisement within the context of the music industry as a whole and the album's theme of celebrating the natural world. The Board noted the image had been chosen by Lorde for the album cover.

The majority of the Complaints Board did not consider the image to be gratuitous or indecent and it did not reach the threshold to breach Rule 1(c) of the Advertising Standards Code.

A minority of the Complaints Board disagreed and said the use of the image in an unrestricted medium of outdoor advertising meant there may be consumers who were not aware of Lorde's music or that the artist had chosen to market her new album in this way. For a minority of the Board, the medium of an unrestricted poster on the street was problematic and the image was likely to cause offence to some consumers.

For a minority of the Complaints Board, the advertisement was in breach of Rule 1(c) of the Advertising Standards Code.

*Has the advertisement been prepared and placed with a due sense of social responsibility?*

For the majority of the Complaints Board, the artistic, stylised nature of the image promoting the album for a well-known New Zealand music artist meant the advertisement did not reach the threshold to breach of Principle 1 of the Advertising Standards Code.

A minority of the Complaints Board disagreed and said the image of a woman with a bare bottom could be offensive to consumers who were unaware of the context. For a minority of the Board, the placement of the poster in an unrestricted medium meant the advertisement had not been prepared and placed with the requisite level of social responsibility and it was in breach of Principle 1 of the Advertising Standards Code.

However, in accordance with the majority, the Complaints Board ruled the advertisement was Not Upheld, taking into account context, medium, audience and product and was not in breach of Principle 1 or Rule 1(c) of the Advertising Standards Code.

**Outcome**

The Complaints Board ruled the complaint was **Not Upheld**.

No further action required

**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](http://www.asa.co.nz). Appeals must be made in writing with notification of the intent to appeal lodged within 14 calendar days of receipt of the written decision. The substantive appeal application must be lodged with the ASA within 21 calendar days of receipt of the written decision.

## APPENDICES

1. Complaint
  2. Response from Advertiser
  3. Response from Media
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### Appendix 1

#### COMPLAINT

I teach my children to keep their body private. In our local walk we walk past this everyday now. It doesn't leave much to the imagination and my kids ask why we can see her bum. This is not appropriate and graphic.

### Appendix 2

#### RESPONSE FROM ADVERTISER, UNIVERSAL MUSIC NEW ZEALAND

As the advertiser, thank you for giving Universal Music the opportunity to respond to the complaint you have received about the street poster advertising the new Lorde album "Solar Power".

The poster is an enlarged version of the cover of the album the poster promotes. The photograph that has offended the complainant was taken by Ella Yelich-O'Connor's (Lorde) best friend Ophelia Mikkelson Jones and selected for the album cover by Ella herself. Ella has described the album cover as "joyful" and a representation of the natural world the album celebrates. We support her creativity and the freedom she has to express herself.

We refute the complainant's assertion that the image is inappropriate and graphic.

The artist herself has decided what was the appropriate image to represent her new album so it is completely appropriate that same image is used on the poster as part of the marketing collateral. The image is not graphic. Ella, the subject of the photograph is wearing a bikini. Rather than graphic, the imagery promotes body positivity, an issue especially relevant to young people today.

It is our view that it's the complainant's slanted view of the image that is inappropriate, not the poster.

Please let me know if you need any further, detailed information to assist you in considering the complaint.

### Appendix 3

#### RESPONSE FROM MEDIA, PHANTOM BILLSTICKERS

Thank you for forwarding the complaint.

I have to admit, I'm surprised by the complaint. As a father of daughters, I encourage a body positive attitude. I wouldn't question their decision to wear a bikini. It's their body and their rules. It is not my decision. This Victorian attitude towards other peoples bodies has no place in 2021. As such we wish to defend this complaint.

This campaign was run on the Phantom Billstickers network in Auckland from the 26th September. Here's a [link](#) to the locations where the poster appeared. This has appeared while Auckland was in a lockdown level 3 state.

The message appears on street posters. Street posters are one of the primary outdoor marketing tactics for album releases and have been for the last century. I note we have run a recent album release campaign that features a male artist shirtless. I'm not aware that there were any complaints lodged against this campaign so should the complaint proceed this would create a precedent whereby females are not entitled to the same rights to express themselves artistically.

In summary, this complaint simply highlights a disturbing view on the female body that has no place in today's society. The subject in the advertisement is wearing a bikini and unless you've been living under a rock (actually, highly likely given the complaint) this imagery has been widely used on music videos, album covers, tour posters, social media and much more.

We have had numerous requests from the public for copies of the poster as a lot of fans would cherish a copy of the poster in their homes. Surely we've evolved beyond catering to the most conservative views on what women can do with their bodies?