



CASE REPORT

- | | |
|-------------------------------|---|
| 1. Complaint reference number | 34/09 |
| 2. Advertiser | Moorilla P/L |
| 3. Product | Alcohol |
| 4. Type of advertisement | Internet |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 11 February 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This internet site from Moorilla for its wine products includes an image of shadowy naked bodies wrapped together in a statue-like pose (similar to ancient Greek art) on a dark background on its home page. Another page on the site which describes its refined wines also includes an image of naked bodies in a different pose, again on a dark background and shadowy and in the style of ancient Greek art. Other pages on the website include images of wine bottles with descriptions of the wine, as well as other images in the same theme.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

I wish to lodge a formal complaint against Moorilla Wines. This advertisement is featured (as at 15/12/08) on the Products website at www.moorilla.com.au. I submit the advertisement breaches the Alcohol Beverages Advertising Code (ABAC). Section C of the Code states that alcohol advertisements “must not depict the consumption or presence of alcohol in beverages as a cause of or contributing to the achievement of ... sexual success.” Further to this the website www.moorilla.com.au contains sexually suggestive images of naked man and women.

THE ADVERTISER’S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

As stated above access to the website is voluntary and a conscious and considered act by a consumer. In our view, it seems inescapable logic that anyone offended by the print advertisement would not then access the website. The fact is that the photographic content of the print advertisement was chosen from a range of artistic works which have been on the website for two years. The photograph was NOT TAKEN for the purpose of appearing in a print advertisement and the image complained of is not - as such an advertisement. The photo is part of a commissioned series of art included in the MONA collection. Assertion regarding the website content We dispute the assertion that the print advertisement and the website should be considered together. To put together the elements of the print advertisement and selective extracts from the website is not a true reflection of how a consumer would be exposed to either. In other words by including point 1 (c) as though it flows from points 1 (a) and (b) in your letter distorts the circumstances and implies that there is a direct and unavoidable link between points a,b and c - which is simply not true. As stated, access to the website, whilst referred to in the print advertisement, is NOT COMPULSORY. The website must be looked at in its entirety and, when it is, the MOORILLA philosophies and in particular the links between the history of wine and the Moorilla approach to making and marketing wine come together.

When the site is viewed as a whole it is apparent that there is no "grubby" or exploitative use of sexual imagery. Moreover, when the philosophy is understood then the historical references and context of some written statements referred to in your letter make very real sense. The content, mood and philosophy of Moorilla and its website may not appeal to everyone but as stated at the outset it is not meant to. The products and advertisements are not presented in a way where they are aimed at children. There is no suggestion that misuse of alcohol is condoned and statements of historical fact and opinion are for consideration by the discerning, mature and interested wine lover. Moorilla has defined its market and its website is designed to appeal to and be attractive to that market. To repeat, the website is compliant with the terms of the code and any assertion that it is not is based on taking phrases or sentences out of context.

CONCLUSION

Moorilla respects the aims of the code and always has and always will abide by it. As stated Moorilla will not be repeating the print advertising. In addition Moorilla would be more than happy to discuss any issues or suggestions the Board or the secretariat may have on the issues raised by you or raised by our response. You have our absolute assurance that we are open minded about this issue and are willing to have an open dialogue with you on this matter and related matters.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted the complainants' concerns that the internet site contains sexually suggestive images of naked men and women and considered the application of Section 2.3 of the Code, relating to sex, sexuality and nudity.

The Board noted that the images are contained on a product specific internet site that a person must actively seek out - and is not an advertisement that will be seen while the person is looking at other things on the internet. The Board noted also that the website is a site for alcoholic beverages (namely wine) and is therefore not designed for or targeted to children or indeed persons under the age of 18. The Board concluded that the relevant audience for the advertising material on this internet site is a mature audience.

The Board considered the images on the website and noted that the images are of naked people but that the images are very stylised, in a classic style, and that it is difficult to ascertain particular people. Although touching each other the people in the depictions are not depicted in a sexual manner and the nudity is discrete.

The Board determined that the images on the internet site treated sexuality and nudity with sensitivity to the relevant audience and did not breach section 2.3 of the Code. Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.