



Case Report

1	Case Number	0049/13
2	Advertiser	Honey Bunny's Adult Store & Quiver
3	Product	Sex Industry
4	Type of Advertisement / media	Radio
5	Date of Determination	27/02/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

A female voiceover says, "Some of our toys are very small...some of our toys are very tall...some of our toys go buzz in the night...all of our toys guarantee delight". She then goes on to say that Honey Bunny's Adult Shop has a better range of adult toys that anyone else in Newcastle.

THE COMPLAINT

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

I would like to make a complaint regarding the inappropriate content of sex adult toys store on the NXFM 106.9 Newcastle radio station. This station advertises at least 2 Adult sex toys stores, Quiver and Honey Bunny's. As far as I am aware this station is not an Adults Only station. The content of the advertisement is given in a very seductive and sex orientated manner/tone. It describes the type of adult sex toys, I don't believe that the advertising is appropriate for the broad listening community and is not appropriate for children. I have children who have asked what the advertisement is about and surely these kids do not need to be exposed via a radio station of what adults might be doing behind closed doors. Surely it should stay behind closed doors or advertised elsewhere in a more appropriate market not the general radio station. As a Mother, and speaking with others I am not alone in this, these advertisements make my family very uncomfortable.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

We refer to your letter dated 5 February 2013, and respond on behalf of NXFM 106.9 Newcastle.

Please find below our reply in response to your request for further information about the specific advertisements.

1. *Description of the Advertisement*

The Advertisements were thirty seconds in duration and contained a combination of plain, informative dialogue and music. The tone of the dialogue in both Advertisements is light hearted, practical and unemotional.

The Advertisements do not contain any explicit sexual references and do not identify any particular product.

The primary aim of the Advertisement was to increase trade for our Client by making potential customers aware of the goods and services offered by our Clients.

We submit that the Advertisement ought not to be considered as overtly sexual as it does not elaborate on any of the specific products or services offered by our Clients.

2. *Comments in relation to the Code of Ethics*

We have reviewed the Advertisements and examined them within the context of the provisions of the AANA Code of Ethics and in particular Section 2 Consumer Complaints ("the Codes").

We submit that the Advertisements are not in breach of section 2.1 of the Codes. The Advertisements did not discriminate or seek to discriminate or vilify persons or sections of the community based on their race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

Section 2.2 of the Codes states that the Advertisement must not appeal in a manner which is "exploitative and degrading of any individual or group of people". Again, we do not consider that the Advertisements were exploitative or degrading to any individual or group of people. Similarly we submit that Section 2.3 of the Codes also does not apply and in no way does the Advertisement present or portray violence.

We confirm that we have also reviewed Section's 2.5 and 2.6 of the Codes which refer to language and health and safety, respectively, and submit that the provisions do not apply to this matter.

3. *Section 2.4 of the Codes "our relevant audience"*

We consider Section 2.4 of the Code to be relevant to our assessment of this particular

complaint and we examined whether the subject matter of sex, sexuality or nudity have been treated with an appropriate level of sensitivity with regard to “our relevant audience”.

The target audience of NXFM 106.9 Newcastle is female listeners who are aged 24-37 years and we attach a copy of NXFM 106.9 Newcastle Brand Aid, as Annexure 1.

In addition to the above and based on our interpretation of the Nielson/Radio Advisor material we submit that the following may be deduced;

(a) NXFM 106.9 Newcastle relevant audience did not consist primarily of younger listeners at the time of broadcast.

(b) The average listener age of NXFM 106.9 Newcastle as at Survey No. 3 2012 was 32 years.

We further submit to the board that the time of the Advertisement which resulted in the complaint at hand was at 5.30pm which traditionally is not a time at which children are likely to be in the car travelling from school.

We do acknowledge that children may have been present whilst their parents were listening and in this regard we refer to the decision of the board, case number 01941/12 which found that where children may be listening to the Advertisement a breach would not be found where “reference to the adult store are relatively mild and no specific products or activities are mentioned”.

We submit that the references to the adult stores concerned are mild and submit that no specific products or activities are mentioned in either of the Advertisements.

With regard to the AANA 2012 Code of Ethics Practice Note, we respectfully submit that no breach of Section 2.4 has occurred. Furthermore:

(i) We do not consider the Advertisements to be highly sexually suggestive, we do acknowledge that there is a discreet portrayal of sexuality is permitted and we contend that this portrayal is relevant to the product and services offered by our client.

(ii) The Advertisements do not contain any pornographic language, or descriptions of full frontal nudity or genitalia.

(iii) The Advertisements do not contain descriptions of men and women in a suggestively sexual pose or in a manner which suggests one sex to be submissive to the other.

(iv) The Advertisements do not target young people and it is highly unlikely that the announcer who features in the advertisements could be perceived as being a teenager or a young person.

We acknowledge the comments of the complainant however we do not consider that the Advertisement is “very seductive and sex orientated” in manner and tone. We further contend that the Advertisements certainly do not “describe the type of adult sex toys”.

Further, we can confirm that Advertisements promoting the goods and services of Quiver

have regularly featured on NXFM 106.9 Newcastle. Quiver has been advertised on our station since July 2006 and the goods and services of Honey Bunny have been advertised on our station since October 2012. Both Advertisements have featured without comment or complaint from any of our listening audience. We can confirm that this is the first and only complaint that we have received, to date, thus demonstrating that the Advertisements are appropriate and in accordance with the prevailing community standards of our audience.

We submit that the goods and services offered by our Clients as described in the Advertisements are likely to be non-controversial to our audience and contend that this is in no way an infringement of the Codes and should in no way be reflected as such in the determination of the Board.

We do not consider that this complaint falls within the remit of the AANA Code of Advertising and Marketing Communications to Children or the AANA Food and Beverages Marketing Communications Code and confirm that there has been no agency or media buyer involvement in this matter.

We look forward to the Board's determinations in this matter. In the meantime, please contact me should you require any further information.

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 complainant's concerns that the advertisement features sexual content which is inappropriate for children to hear.

The Board viewed the advertisement and noted the advertiser's response.

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience".

The Board acknowledged that there is a level of community concern surrounding the advertising of adult themed products and noted that adult shops are legally allowed to be advertised. The Board noted the Advertiser's response that care had been taken in the timings in which the advertisement had been aired as well as the choice of radio station.

The Board noted that the advertisement features references to adult toys and considered that whilst the frequent use of the word 'toys' could attract the attention of children, the language used in the advertisement is relatively mild and discreet in its references to the sex related products and children would be unlikely to understand what the toys actually are.

The Board considered that the material depicted in the advertisement is mild and discreet and not inappropriate for a broad audience which could include children.

The Board determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaints.