



## **CASE REPORT**

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| 1. Complaint reference number | 544/08  |
| 2. Advertiser                 | Sweethearts Adult Shop                          |
| 3. Product                    | Sex Industry                                    |
| 4. Type of advertisement      | TV  |
| 5. Nature of complaint        | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination      | Wednesday, 21 January 2009                      |
| 7. DETERMINATION              | Dismissed                                       |

## **DESCRIPTION OF THE ADVERTISEMENT**

This television advertisement for Sweethearts Adult Shop's DVD sale uses animation. Figures of well known news reporters appear to be reading and reporting the news, but explain the items available during the sale. The advertisement ends with one of the reporters in front of the Sweethearts shop.

## **THE COMPLAINT**

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

*I am writing to express my profound offence and deep disgust with two commercial advertising segments recently aired on Townsville's WIN (9) network during a motion picture, Harry Potter and the Prisoner of Azkaban. The advertisement were aired at 9.08 pm and 10.15 pm respectively on Friday, 7th November 2008. Both advertisements were presented in a cartoon format and featured the Sweethearts Adult Shop in Townsville. They mentioned specific adult magazines by name and to my dismay, depicted them visually. My wife and I were offended by the portrayal of materials that are, by their very nature sexually explicit. We were also very concerned with the implications for young and impressionable viewers who, indeed, would be watching the movie. It is bad enough that commercial television networks are prepared to screen such advertisements at any time. However, to air such material with blatant sexual overtones during a movie that directly appealed to young persons was deplorable in the extreme. I trust that official action can be undertaken in order to ban this careless and deeply offensive form of commercial advertising in the future.*

## **THE ADVERTISER'S RESPONSE**

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

*As a regional advertiser through regional TV stations in the far north of Queensland, when we book TV advertising spots we are not informed of what the actual programmes the spots are placed into. We only book a time, not a programme. The stations refuse to give small regional advertisers this information. As we booked this campaign in August almost 3 months prior, to make sure we could get the best times in the post 9pm time slots( which is our restricted time zone being an adult retailer) The TV channels would not advise us of the actual programmes until the add's had already begun going to air. The actual exact placement time is not confirmed to us until we receive our placement log which comes with the invoice for the campaign sometimes up to a month after the add's have gone to air.*

*The scripts and storyboards of the add's in question, which were written and produced by Channel 7 were sent to CAD's and were approved with an "A rating" which is inline with the timeslots booked and broadcasted according to the TV stations.*

*There were no magazines advertised in the add's at all contrary to the complainants assertions,*

*therefore I believe the complainants was wrong in fact. There were no "real products" advertised in the add's just "Private DVD's" These were mock ups made by the channel 7 production team to "demonstrate" a DVD cover.*

*These mock ups do not in fact exist. Nor were they offensive in any way. It is my position that there is in "fact" nothing wrong with the add's or there placement times. We are always very careful in our advertising, and in 24 years of operation, this company has never before had a single complaint of any form.*

## **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 depicted material of a sexually explicit nature and considered the application of Section 2.3 of the Code, relating to sex, sexuality and nudity.

The Board noted it had difficulty seeing any specific adult magazines depicted in the advertisement and noted the advertiser response that these were not real products, but mock-ups made for the purpose of the advertisement to demonstrate DVD covers. The Board considered the information and images presented in the advertisement were discrete and found that the advertisement treated sex and sexuality sensitively to the relevant audience. The Board therefore found no breach of Section 2.3 of the Code.

The Board also considered whether there was any contravention of Section 2.1 of the Code, relating to discrimination and vilification. The Board noted that one of the characters depicted was a stereotype of an Indian journalist. The Board noted that this was a caricature, similar to the other caricatures used in this and a similar advertisement (considered in Case Reference Number 543/08) and that although some members of the community may find this to be in bad taste, the depiction did not amount to discrimination or vilification. The Board therefore found no breach of Section 2.1 of the Code.

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