



CASE REPORT

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| 1. Complaint reference number | 1/09 |
| 2. Advertiser | Major Oak Theatre Restaurant |
| 3. Product | Restaurants |
| 4. Type of advertisement | Transport |
| 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 advertisement seen on public transport from the Major Oak Theatre Restaurant's comedy show, has an image of a man wearing black cap, black leather coat and black jeans which appear to show the man's buttocks.

THE COMPLAINT

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

*While driving along with my 3 and 1 year old daughters in the car this morning, we all could not help but be exposed to this large advertisement on the back of a Sydney bus. My 3 year old was asking me "why that man is showing his bottom?" and "he has a kiss on his bottom", "who kissed his bottom?", "why did he get a kiss on his bottom?" I am trying to teach my kids modesty and a healthy respect for their bodies and others...I think it is disgusting and unhelpful to the the decent parenting process that small children such as mine have no choice but to be exposed to a dirty old man's buttock with a kiss on it! AANA Code of Ethics
Section 2.3 "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone" Are my kids the "relevant audience"? Because today they were definitely the audience of this ad (not their or my choice). And if they are the audience, i do not believe that sex, sexuality and nudity has been treated with sensitivity, as described in the AANA Code of ethics.*

THE ADVERTISER'S RESPONSE

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

We have had this advertising on the back of local buses for approximately 6 years. The comedian in the photo has been with us 25 years, and is a well known local celebrity and has a wife and children he supports. That you have received only 1 complaint indicates to me that 'anon' is devoid of a sense of humour ...

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 about the depiction of the man's buttocks with a kiss mark and considered the application of Section 2.3 of the Code, relating to sex, sexuality and nudity.

The Board noted this advertisement was displayed on transport and could be seen by a wide audience. The Board noted that the advertisement showed the man's buttocks through windows in his pants, but otherwise he was fully clothed. The Board also noted the kiss mark on his buttock, and considered that the entire image was not sexualised and was intended to be over the top and humorous - consistent with the product or service being advertised, ie: a comedy theatre show. The Board noted that the image is a transport image and hence available to a wide audience. The Board considered that the image was not inappropriate for the relevant audience.

The Board considered the depiction was consistent with Section 2.3 of the Code, in that it treated the depiction of sexuality and nudity sensitively to the relevant audience.

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