



Case Report

1	Case Number	0005/13
2	Advertiser	Nova 969 Pty Ltd
3	Product	Entertainment
4	Type of Advertisement / media	Outdoor
5	Date of Determination	16/01/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

Advertising banner for Nova 96.9FM featuring Wippa dressed only in a Santa hat, underwear, Christmas decorations and gumboots.

THE COMPLAINT

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

I can choose to turn on or off advertising on radio or TV. I can choose not to read advertising in a magazine or newspaper. But any form of outdoor advertising that invades the privacy of my own back yard is appalling when I have not chosen to view or be a part of it.

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 3 January 2013 concerning the investigation by the Advertising Standards Bureau (ASB) in relation to a complaint received relating to the recent heli-banner advertisement commissioned by Nova 96.9 Pty Ltd (Nova 96.9FM) and displayed in and around the City of Sydney towed behind a helicopter (the Advertisement).

The Advertisement

The Advertisement was an irreverent tongue in cheek Christmas themed heli-banner

promoting the “Fitzy & Wippa” breakfast show on Nova 96.9FM, whereby Wippa was dressed only in a Santa hat, underwear, Christmas decorations and gumboots.

The heli-banner was then flown around the City of Sydney via helicopter and listeners of Nova 96.9 were then invited to locate the heli-banner and either call Nova 96.9FM and tell our announcers where they had seen the heli-banner or to take a photograph of the heli-banner and send the image to Nova 96.9FM via the Nova 96.9FM website or Nova 96.9FM social media pages.

Whilst we can understand and appreciate the complainant’s point of view in respect of the Advertisement, Nova 96.9FM does not think that the Advertisement is in breach of the AANA Advertiser Code of Ethics or other applicable regulation.

AANA Advertiser Code of Ethics

The complainant raised concerns with that the heli-banner featuring a “semi-naked individual” (being our announcer “Wippa”) and that the complainant found this manner of outdoor advertising intrusive and not something the complainant would have ordinarily chosen to view.

Upon further review of the Advertisement we do not believe that the Advertisement was inappropriate or that it displayed any explicit sexual content. Nor do we believe that there was any insensitive treatment of nudity in the Advertisement. Looked at in context the content of the Advertisement was akin to an underwear or swimwear advertisement and it is arguable that the Advertisement displayed less nudity than many underwear and swimwear advertisements. Whilst the Advertisement was certainly cheeky and irreverent we do not consider that there was anything explicit or obscene in the Advertisement.

In respect of the form of outdoor advertising employed, being a banner trailed behind a helicopter, we have reviewed the manner in which this advertising was conducted and we believe that the heli-banner was at all times conducted in accordance with all relevant rules and regulations regarding the use of heli-banners of this kind in and around the City of Sydney.

We also consider it important to note that both Nova 96.9FM and the helicopter operator, Branding By Air, spent time considering the content of the Advertisement to ensure compliance with applicable regulations, including submitting an image of the Advertisement to the ASB. Whilst we understand that it is not the ASB’s role to pre-approve advertising, we appreciate the ASB’s feedback and take our legal responsibilities with regard to all content seriously.

At the outset it is important to note that Nova 96.9FM Pty Ltd (trading as Nova 96.9FM) (Nova 96.9FM) does not consider itself strictly bound by the Code. Nevertheless, as a matter of corporate policy and broadcasting practice, Nova 96.9FM uses its best endeavours to comply with the Code at all times.

Section 2.4 of the Code provides that:

2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

Code 2.4

Nova 96.9FM acknowledges that the Advertisement featuring a semi naked “Wippa” may have shocked some viewers, the complainant in question being one such person.

However, the imagery used was not obscene. Whilst we acknowledge that the image used of “Wippa” was semi-nude (with Wippa’s chest and legs without clothing) however the remainder of his body was covered with a hat, underwear, Christmas decorations and boots. Furthermore, no explicit nudity was portrayed in the Advertisement.

The image was intended to be a parody on a “sexy” photo shoot and designed to get the attention of Nova 96.6FM listeners to engage and encourage Nova 96.9FM listeners to communicate with the station.

Nova 96.9FM is a radio station whose target and predominant audience is adults aged 18-39 years of age, as confirmed by regular surveys conducted by AC Nielsen. Nova 96.9FM does not target children, or tailor its advertising towards children. The Advertisement was aimed at Nova's core adult audience who would appreciate the nuances of the Advertisement. Nova 96.9FM respectfully submits that the imagery used was appropriate for the intended and target audience and does not include anything which is obscene or offensive or do we believe that there was any insensitive treatment of nudity in the Advertisement. In light of the context in which the Advertisement was displayed, Nova 96.9FM believes that the majority of its audience would regard the Advertisement as light-hearted and irreverent, which was the spirit in which it was intended. For these reasons, Nova 96.9FM strongly believes that the Advertisement does not breach clause 2.4 of the Code. While Nova 96.9FM does not consider that the Advertisement raises issues under section 2 of the Code, Nova 96.9FM does value feedback on the Advertisement and intends to monitor any similar complaints received in the future to ensure that these advertisements are not offensive to a significant proportion of the community. We would welcome the opportunity to provide any further clarification that the ASB may require in relation to this matter.

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 nudity and as an outdoor advertisement it cannot be avoided.

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 noted that the advertisement was to promote Fitzy and Wippa's radio show and featured an image of Wippa wearing a Santa hat and boots with a Christmas bells decoration covering his genital area.

The Board noted the complainant's concerns regarding helicopter banners and the fact that these cannot be switched off by the viewer and considered that helicopter banners are allowed to advertise products and that the viewer can choose not to look at them.

The Board noted that although Wippa is mostly naked in the advertisement it is clear that he is wearing undies and the large Christmas bells decoration covers his genitals so that no private areas are exposed. The Board noted that the Christmas theme of the advertisement would be of appeal to children and considered that the light-hearted and cheeky nature of the advertisement combined with a level of nudity not uncommon on Australia's beaches amount to a depiction which is not inappropriate for children to see. The Board noted that the advertisement contained partial nudity but considered that the overall image was not sexualised.

The Board considered that the advertisement is mild and does treat sex, sexuality and nudity with sensitivity to the relevant audience which could include children.

The Board determined that the advertisement 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 complaint.