



Case Report

1	Case Number	0026/11
2	Advertiser	FOXTEL Management Pty Ltd
3	Product	Entertainment
4	Type of Advertisement / media	TV
5	Date of Determination	09/02/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Sex

DESCRIPTION OF THE ADVERTISEMENT

A group of four female friends are discussing the new FOXTEL on Xbox 360 service. One of the woman's flatmate walks in wearing a pair of board shorts and carrying a surf board. The women admire him as well as the Xbox and one of them asks, "Where can I get one of those?" whilst the others laugh.

THE COMPLAINT

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

The ad portrays males as being a pet. Particularly when one girls says to another refereing to the male "where can I get one of those".

Anti discrimination legislation operates to provide equality for all and this ad trivialises the man's position. Girls have a good titer when they see the man shirtless. Reverse the roles within this ad and see what women feel.

As a women I find this advertisement offensive. It sexualises men in a way that I find inappropriate. It is embarassing to have this shown on TV and feel that men will think that is a representative of how women act. I am not impressed that this made it through the board as if the roles were reversed and it was four men making comments about a woman it would have been deemed offensive straight away and Womens' Rights Groups would have been all over it. It is sexist to allow for this ad to remain on TV and personally offends me to portray women as so shallow and sexualise a man in such a way. One of the women makes a comment saying she 'wants one of those' clearly directed at the man. Completely

inappropriate. Is she implying that she wants a topless man with no name personality or identity to walk around her house? I think that is called prostitution. I will certainly be boycotting both of these poorly advertised products and will be avid in telling everyone I know about how disgraceful the advertisement is. Please see that this ad is removed or altered in a way that doesn't make it seem women are stupid and use Xbox 360s to attract men they can throw catcalls at.

THE ADVERTISER'S RESPONSE

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

FOXTEL does not believe that the advertisement deals with "sex" in any respect. FOXTEL also submits that the advertisement does not "portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of sex".

The term "discrimination" is defined under the Australian Human Rights Commission Act 1986 as being: "any distinction, exclusion or preference made on the basis of ...sex... that has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation."

From this interpretation it is evident that discrimination is an act that impairs equality and on that basis FOXTEL submits that the advertisement cannot be regarded as discriminatory in any sense.

"Vilification" is typically understood as engaging in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of a person or class of persons. FOXTEL believes that the advertisement cannot in any way be regarded as inciting hatred on the basis of sex or giving rise to any of the other relevant elements.

FOXTEL believes that the advertisement does not deal with "sex" or any of the other elements as the advertisement simply depicts a male surfer returning home from the beach in his board shorts carrying a surfboard and towel.

However, if the Advertising Standards Board is of the view that the advertisement does in fact deal with "sex", FOXTEL believes that it has complied with section 2.3 of the Code by treating sex "with sensitivity to the relevant audience". The relevant audience of this advertisement is young males and females in their mid twenties and FOXTEL submits that it has dealt with any sex issues appropriately by not including any actual male/female sexual interaction in the advertisement.

The advertisement was intended to be light hearted and in line with the social behaviours of the target audience. One of the aims of the advertisement was to illustrate a real situation and FOXTEL believes that this was achieved, done in good taste and is reflective of everyday life amongst the target audience. The advertisement is set in summer and in particular it was a creative decision for FOXTEL to ensure the advertisement had a distinct "Australian summer" feel, which led to wardrobe decisions to include board shorts for the male actor and summer garments for the female actors.

FOXTEL notes the complainants' comments about the line "where can I get one of those?" The creative concepts of the advertisement were in no way intended to portray women as "shallow" or promote "prostitution"; the advertisement simply intended to use humour to highlight the advance in technology to provide the FOXTEL service through an Xbox 360

console. FOXTEL takes the concerns of its subscribers and its commitment to the community very seriously and it was never FOXTEL's intent to cause any offence. FOXTEL submits that the advertisement has not breached sections 2.1 or 2.3, or any other section, of the Code.

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’ concern that the advertisement is sexist and objectifies men.

The Board reviewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement was in breach of section 2.1 of the Code. Section 2.1 of the Code states: “Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of ...sex...”

The Board noted that the advertisement features four women admiring the new Xbox which can broadcast Foxtel and belongs to one of the women’s new male flat mate, and then admiring this flat mate when he walks in wearing just a pair of board shorts.

The Board noted that the male flat mate is carrying a surf board and considered his board shorts were appropriate attire for surfing. The Board noted that one of the women asks, “Where can I get one of those” and noted that this could be interpreted as both meaning where could they get an Xbox or where can they get a male flat mate.

The Board considered that the overall tone of the advertisement was lighthearted and that the man appeared confident and unconcerned with the attention of the women

The Board considered that the image of the women admiring the new flat mate did not demean the women or the man.

The Board determined that the advertisement did not discriminate against or vilify men or women, and that the advertisement did not breach section 2.1 of the Code.

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

