



ADVERTISING
STANDARDS
BUREAU

Level 2, 97 Northbourne Avenue, Turner ACT 2612
Ph (02) 6173 1500 | Fax (02) 6262 9833
www.adstandards.com.au

ACN 084 452 666

Case Report

1	Case Number	0029/14
2	Advertiser	Enhance Clinic
3	Product	Beauty Salon
4	Type of Advertisement / media	Transport
5	Date of Determination	12/02/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

Images of a naked woman on a car, promoting the Enhance Clinic. Image on the bonnet of the car features a woman's hands covering her breasts. The words, "Enhance Clinic.com.au" are written above her hands.

The image on the side of the car features a woman lying on her side with her arm raised. Her groin has been shaded out and the words, "Enhance Clinic.com.au" are written across her chest.

THE COMPLAINT

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

I feel the ad is bordering on pornographic. Just because a nipple is covered doesn't mean the breast is covered. And the hand only just covers the pubic area. It is rude, offensive, degrading, a distraction to people driving and not something young eyes should be viewing. There is no need to have so much nudity.

THE ADVERTISER'S RESPONSE

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

We are a cosmetic surgery and our image is quite important, we do intimate surgery for woman and predominantly below the waist. In this picture, the person is naked but it's blurred, and no body parts are shown. For example you cannot see nipples or breasts or hair or private parts. We would consider this a tasteful way of advertising our type of business.

We are very accommodating to different cultures and religions due to the various types of sensitive procedures that we do, and our signs need to accommodate to all of them. The sign is meant to bring us business by ensuring viewers know what we do, we chose to use this image as we think it ensures we don't discriminate, as we cater for all ages, from young ladies to the elderly, male and female and our customers have commented positively on our branding. We want to promote confidence in your own skin.

Business is booming since our cars have been implemented. We have displayed our message to cultures that hide intimate malformations, who may have spent their whole life being ashamed of their body. This would be evidenced by our statistics for vaginal surgeries.

As we represent a very reputable doctor and surgeon we want our image to depict the level of professionalism we provide, and to be advised that our cars are pornographic is quite disappointing to our company as we pride ourselves on professional service and conduct. In reply, to the allegation that our "advertisement borders on pornographic". The term pornographic applies to the depiction of the act. Further, soft-core pornography generally contains nudity or partial nudity in sexually suggestive situations. The picture does not show any more than a doll.

The cars do not imply any depiction of any act. The person in the picture is a staff member who is a personal trainer and sports fanatic. Her image is that of a very healthy young lady. A great example to our youth of today.

The person depicted in this picture is naked but you cannot see any offensive body part at all, and the pose does not promote any sexual themes. This is the same pose we have copied from many other medical or cosmetic websites so it is quite common.

As our business name depicts we are a cosmetic surgery, we help people enhance their bodies to provide confidence and positive self-image.

As can be seen from all of the above points, our cars do not contravene any of the relevant sections of this act. There is no explicit or frontal nudity portrayed on our cars, nor is it in any way discriminatory to any sector of our community.

This complaint is a total waste of ours and the department's time and should be treated as nothing more than a malicious and spurious complaint.

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 is bordering on pornographic with its depiction of a naked woman on a vehicle which can be seen by children.

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 promotional image on a vehicle that included the torso of a woman on the bonnet of the car that was an image of her hands covering her breasts. The side of the vehicle was a depiction of a naked woman lying down with one hand above her head and the other hand covering her genital region.

The Board noted the image on the bonnet of the vehicle was of a woman's breasts but that they are covered by her hands that are well manicured with glittered nail polish. The writing includes the business website. The Board determined that this was not an overtly sexualised image as there is no detail of breasts visible.

The Board noted that the image on the side of the vehicle was the same image that appears on signage outside of the business premises but with the woman in a horizontal position.

The Board noted that it had recently upheld an advertisement for Nude Muse (reference 0216/13) that included images of different women on vehicles and the women were in various poses and completely naked. The Board noted that in the matter of those vehicles:

"the combination of the multiple images, the poses of the women and the way in which they are presented amounts to an overall depiction of nudity which does not treat sex, sexuality and nudity with sensitivity to the relevant audience"

The Board noted that in contrast in this instance, the image on the side of the Enhance Clinic vehicle, was not as clear as the Nude Muse images and the medium that it was displayed on made it difficult to identify the image clearly and reduced the sexual nature of the image. The Board noted again that the image is relevant to the advertised product.

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

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

