



ADVERTISING
STANDARDS
BUREAU

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Case Report

1	Case Number	0030/14
2	Advertiser	Enhance Clinic
3	Product	Beauty Salon
4	Type of Advertisement / media	Billboard
5	Date of Determination	12/02/2014
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

Image of a woman on a billboard. She is naked and her hand appears to be resting over her groin but the area is covered by a love heart. The words, "Enhance Clinic" are written across the top of the image, covering her nipples. The remaining text lists the procedures available at the clinic, such as breast implants, liposuction and HRT.

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. The Board viewed the advertisement and noted the advertiser's response. The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.' The Board noted that as well as an image of a woman, the text in the advertisement describes the treatments available at the clinic and considered that the surgical/beauty treatments are presented in a way which informs the community of the services on offer but does not suggest that all women should undertake these treatments. The Board determined that, in this instance, the advertisement did not depict any material that discriminated against or vilified any person or section of society and did not breach Section 2.1 of the Code. 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 this advertisement is the modified version of a previously upheld complaint (0188/11) where the Board considered: "... that it is reasonable to expect a provider of surgical/beauty treatments to show the potential results of those treatments in order to promote their business. The Board noted that

it has previously considered similar images for similar services (385/09, 276/10) and that in those instances the complaints were dismissed. In this instance however the Board considered that the image of the woman with her hand between her legs makes it appear as though she is touching herself intimately rather than covering herself, and considered that this made the image sexualised.” The Board noted that in this modified version of the advertisement a love heart shaped sticker has been placed over the woman’s hand and genital region and that the rest of the advertisement remains unchanged. The Board considered that although the love heart is placed over the woman’s genital region, her hand is still clearly placed over the same area. The Board considered that as in the previously considered case, the woman’s hand appears more as if she is touching her genital area, rather than covering it. The Board noted that the use of the love heart to modify the previous image has not effectively addressed the concerns previously raised and that the image still has a sexualised tone. The Board considered that the advertisement did not treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and that it did breach section 2.4 of the Code. Finding that the advertisement did not breach the Code on any other grounds, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advertiser has covered the offending area with a large rectangular shape that reads 'censored' as an interim option. The advertiser has confirmed that they are working on a new sign to replace the existing one for a more permanent solution.