

Case Report

1	Case Number	0045/14
2	Advertiser	powershop.com.au
3	Product	House Goods Services
4	Type of Advertisement / media	Billboard
5	Date of Determination	26/02/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

Billboard features a cartoon style electricity plug to insinuate and extended middle finger ie: "giving the bird" to current electricity providers.

THE COMPLAINT

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

The hand/finger gesture suggested/promoted/depicted in the image is rude and inappropriate. With kids in the car driving on the freeway, to see this advertisement is disgusting. If you "fly the bird" at a policeman you are arrested, why should I have to see it in an advertisement and then have to explain what it means to my 4yo and tell them not to do it in public. Please have this advertising removed asap.

THE ADVERTISER'S RESPONSE

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

Powershop is a small challenger brand looking to tap into the deep vein of resentment many Australian's feel towards their power company and the energy sector in general. The Powershop brand positioning is that of the customer champion and we are positioning

ourselves as different from the rest – we are younger, less corporate, a real alternative to the major players, as demonstrated by our 95% customer satisfaction.

Our message is aimed at the household budget manager in Victoria who is feeling resentment towards their existing electricity supplier. We are encouraging them to switch to Powershop in a fun and engaging way by ‘giving the bird’ to their current supplier.

The image of ‘flipping the bird’ originated pre-Roman times but today, in Western culture, it is a highly popular and universally recognised symbol of aggression.

Our advertising is clearly aimed at adults and is part of a wider humorous campaign.

As to whether it contravenes section 2 of the AANZ Code of Ethics, we do not see it fitting under any of the categories (s2.1 – s 2.5). This only leaves s2.6 and while the gesture is an offensive one, it cannot reasonably be said to prevail against community standards for the State of Victoria in 2014. In addition, it is not in the context of health or safety.

The intention is to cause laughter, not offence and we believe the majority will take the advertisement in the spirit it is intended.

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 concern that the advertisement features a rude and inappropriate gesture that is not suitable for viewing by children.

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

The Board considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided”.

The Board noted that the advertisement includes an image of a large electricity lead with the prongs at the end of the plug formed in a way so that it looks like the plug has the middle prong extended to appear like a hand giving “the bird.” The text reads “Shall we tell your power company or do you want to?” The business name appears at the bottom, Powershop.com.au

The Board noted that it is reasonable to include gestures as part of considerations regarding language and therefore it is appropriately considered within section 2.5 of the Code.

The Board noted that the advertisement is designed to draw the attention of the viewer to an alternative and relatively new electricity supplier. The Board noted that the image in the advertisement is clearly meant to replicate the gesture people use to indicate they want someone to “go away.”

The Board noted that it had previously upheld complaints about a billboard for The Investors Club (ref: 0288/12), that included an image of a hand with the middle finger extended and the headline which read “Stuff Paying Tax”.

In the above case, the Board considered that “although specific words are not used to express distaste for paying tax, there is an image, that is a universally recognised gesture meaning “fuck you” or “fuck off”. The Board noted that the advertisement was displayed on a billboard that could be easily viewed by children and that the gesture could easily be

mimicked by children. The Board considered that the depiction of the extended middle finger was inappropriate, particularly on a billboard that is able to be seen by a broad section of the community including children.”

The Board noted that in the current case, the image is not a real hand but a power plug with prongs bent down to make the straight prong appear to be an extended middle finger. The Board noted that the target audience for the advertisement is adults who would be interested in electricity suppliers. The Board considered that compared to the matter above, the use of the plug is a stylised image and is not as easily seen as a particular gesture and is less likely to be understood by young children as a rude gesture. The Board considered that although the image in connection with the text is alluding to an offensive gesture, it is stylised and therefore relatively subtle and did not feature language or a gesture which is inappropriate in the circumstance and that the advertisement did not breach Section 2.5 of the Code.

Finding that the advertisement did not breach Section 2.5 of the Code, the Board dismissed the complaint.