



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0061-21
2. Advertiser :	Kot Nails
3. Product :	Beauty Salon
4. Type of Advertisement/Media :	Billboard
5. Date of Determination	24-Mar-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This billboard advertisement features an image of a woman receiving a beauty treatment, a part of a woman's face and hands including her manicured nails, text in English detailing what the business offers and text in Chinese which translates to "If you are not beautiful, how can you have a beautiful life?".

THE COMPLAINT

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

The Chinese slogan on the advertisement does not have a corresponding English translation, but it means "If your appearance is not beautiful, then your life will not be beautiful". I think it is appearance discrimination. Because I'm not beautiful, this advertisement is really rude and offensive for me. I do not believe that people who are not beautiful should not have a good life, so I hope to ask for some help, thank you.

THE ADVERTISER'S RESPONSE



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

Advertiser did not provide a response.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concerns that the advertisement is discriminatory on the basis of appearance.

The Panel viewed the advertisement and noted the advertiser did not respond.

Section 2.1: Advertising or Marketing Communication 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 race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

The Panel noted that appearance is not a ground of discrimination under Section 2.1 of the Code and the Panel could not consider the complaint on this basis.

The Panel obtained a NAATI certified translation of the advertisement which advised that the English translation is "If you are not beautiful, how can you have a beautiful life?". The Panel noted that the translator advised "The word 'beautiful' here...is very, very rarely used when describing a man's beauty".

In the context of the advice of the certified translation, and noting that nail and beauty salons are predominately targeted towards and frequented by women, the Panel considered the advertisement under the gender provision of Section 2.1.

Does the advertisement portray material in a way which discriminates against or vilifies a person on account of gender or nationality?

The Panel noted the AANA Practice Note which provides guidance on the meaning of:
Discrimination - unfair or less favourable treatment
Vilification - humiliates, intimidates, incites hatred, contempt or ridicule.

Gender

The Panel noted that the advertiser is a business in the beauty industry and provides beauty services.

The Panel considered that a suggestion that women who are not conventionally attractive or do not spend money on their appearance do not have a beautiful life is



offensive, however the Panel considered that the advertisement does not make that assertion.

The Panel considered that the phrasing the text as a question leads to some ambiguity as to the implication of the text. The Panel also considered that beauty/beautiful is a term that is widely open to interpretation due to an individual's aesthetic preferences.

Overall the Panel considered that the advertisement may be considered by some members of the community to be offensive, however under the provisions of the Code it was not discriminatory or vilifying on account of gender.

Nationality

The Panel also considered the issue of the advertisement being in a language other than English and whether such an issue is a breach of the Code.

The Panel noted that there is some community concern that advertisements in a language other than English are discriminatory towards English-only speakers, as they are unable to interpret the advertisement.

The Panel noted that advertisers are able to target their advertising towards a particular demographic or type of customer. The Panel considered that an advertisement being unable to be read or understood by a certain section of the population is not itself discriminatory. The Panel noted that its role is to consider the content of an advertisement and, in the absence of the advertisement making reference to a person or section of the community, considered that the advertisement does not treat any nationality less favourably.

Section 2.1 conclusion

Finding that the advertisement did not portray material in a way which discriminates against or vilifies a person or section of the community on account of gender or nationality, the Panel determined that the advertisement did not breach Section 2.1 of the Code.

Section 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel considered whether the advertisement promoted an unhealthy or unsafe body image or messaging.

The Panel again noted that the advertisement text is phrased as a question. The Panel considered that while there is an implication due to the nature of the advertised business, there is no explicit suggestion or encouragement that viewers should try to become more beautiful, or a suggestion that beauty could be obtained in any unsafe or unhealthy way.



The Panel considered that most members of the community would not find the text of the advertisement to be contrary to Prevailing Community Standards on health and safety.

Section 2.6 conclusion

The Panel considered that the advertisement did not contain material contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

Conclusion

Finding that the advertisement did not breach any other section of the Code, the Panel dismissed the complaint.