



## Case Report

1	Case Number	0071/11
2	Advertiser	3SR Shepparton Radio
3	Product	Sex Industry
4	Type of Advertisement / media	Radio
5	Date of Determination	09/03/2011
6	DETERMINATION	Dismissed

### ISSUES RAISED

2.3 - Sex/sexuality/nudity      Treat with sensitivity to relevant audience

### DESCRIPTION OF THE ADVERTISEMENT

A female voiceover talks about Rawhide which is a club where topless waitresses serve drinks on Fridays. The voiceover tells us that there is no cover charge between 5 and 7pm of Friday afternoons and advises that customers of Rawhide must be over 18. There is a warning that sexually explicit material and the sight of topless waitresses may offend.

### THE COMPLAINT

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

*I had my three young children in the car - the advertisement was explicit and embarrassing. It mentioned topless waitresses and adult entertainment. My young daughters particularly need not be exposed to this culture at a "parenting time". This was BEFORE 7pm. Surely there is some regulation stopping such adult content on radio before 9 pm or so. If so what is it? This was before the 7pm news so I think this needs attention.  
It may get to the point where I can't turn on the commercial radio at all.*

### THE ADVERTISER'S RESPONSE

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

*The Advertisement was broadcast on 3SR Shepparton (Radio Station). The Radio Station produced the Advertisement for Rawhide.*

*As requested, we have attached the script for the Advertisement and a digital copy of the Advertisement.*

*The Advertisement*

*The Advertisement is 30 seconds long. It consists of a female voice-over advising listeners of the Club's location and opening hours. The voice-over also advises that there is no cover charge to the Club between 5 and 7 pm on Friday afternoons, when the Club's waitresses are topless and drinks are at bar prices. The Advertisement advises that customers to the Club must be over 18, and concludes with a warning that sexually explicit material and the sight of topless waitresses may offend.*

*The Radio Station broadcast the Advertisement from 3rd February to 25th February approx. 36 times at various times across the day and night excluding 7 am to 9 am and from 2:30 pm to 4 pm.*

*The Complaint*

*The Complaint states that the Advertisement was sexually explicit and embarrassing for the complainant while with her children because it mentioned topless waitresses and adult entertainment. The Complaint also takes issue with the Advertisement because it was broadcast before 7 pm.*

*Your letter states that the Complaint raises issues under section 2.3 of the Australian Association of National Advertisers Code of Ethics (Code).*

*Our Response*

*We are sorry to hear that the Advertisement caused the complainant embarrassment. The Radio Station takes its responsibilities to comply with laws, regulations and codes, including the Code, seriously. Our client also treats its obligations to comply with advertising standards seriously.*

*We have carefully reviewed the Advertisement in light of the Complaint. For the reasons set out below, we are of the firm view that the Advertisement complies with the Code and that the Complaint should not be upheld.*

*Section 2.3 of the Code provides that advertising or marketing communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant time zone.*

*The Advertisement does not contain any sexually explicit content or nudity. While the female voice-over in the Advertisement might be described as "sexy", the Advertisement (including the words spoken) is very mild in tone. It merely advertises details about the Club, and the fact that there is no cover charge and topless waitresses from 5pm until 7pm every Friday. Although the Advertisement contains a reference to sexually explicit material and topless waitresses, this is stated in the context of a warning to listeners. It could not be said that that of itself treats nudity or sex insensitively, or renders the Advertisement to be sexually explicit. As noted above, the Club is an adult venue. As such, the Advertisement was targeted towards an adult audience. The Radio Station always takes care to ensure that all its advertising is broadcast in time zones appropriate to its potential audience. In this instance, the Radio Station took steps to ensure that the Advertisement was not broadcast during any program which was likely to attract a substantial child audience. In particular, the Radio Station made a decision not to broadcast the Advertisement from 7 am to 9 am and from 2:30 pm to 4*

*pm Monday to Friday, as these are the time slots in which higher volumes of children are most likely to listen to the Radio Station (as they are driven to and from school). Accordingly, in the context of the Advertisement's target audience and the times in which it was broadcast, we do not consider that the Advertisement treated sex, sexuality and nudity inappropriately to either the audience or the relevant time zone. Neither the AANA Code of Advertising to Children or the AANA Food or Beverages Marketing Communications Code, apply to the Advertisement. We do not believe that the Advertisement raises any other issues under the Code. Thank you for providing us with an opportunity to submit a response to the Complaint. We hope you find this response satisfactory.*

## **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 features explicit dialogue and is not appropriate for the time it was aired (i.e. family radio time – before 7pm)

The Board reviewed the advertisement and noted the advertiser's response that the ad provides details about the Club (which is an adult venue) and was targeted towards an adult audience.

The Board considered whether the advertisement was in breach of section 2.3 of the Code. Section 2.3 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone".

The Board noted that although the advertisement contains a reference to sexually suggestive material and topless waitresses, that in itself does not mean that the ad is sexually explicit.

The Board noted that the Radio Station did not broadcast the Advertisement from 7 am to 9 am and from 2:30 pm to 4 pm Monday to Friday, as these are the time slots in which higher volumes of children are most likely to listen to the Radio Station (as they are driven to and from school).

The Board noted that whilst some members of the community may feel uncomfortable with the topic of the advertisement, the language and descriptions used were relevant to the product/service being advertised and were quite mild.

The Board determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and that it did not breach section 2.3 of the Code.

The Board then 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 featured the words “sexy”, “go topless” and “topless waitresses”. The Board considered that these words are relevant to the advertised product and are said in a factual manner. The Board considered their use was not inappropriate considering that radio had set the time constraints, and were not strong or obscene.

Based on the above the Board determined that the advertisement did not use strong and obscene language or language considered inappropriate and that it did not breach Section 2.5 of the Code.

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