



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

AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0107/19
2	Advertiser	Construct Personnel
3	Product	Professional Service
4	Type of Advertisement / media	Transport
5	Date of Determination	17/04/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Gender

DESCRIPTION OF THE ADVERTISEMENT

This transport advertisement features a blurry group of people in various business/trade clothing. To the right of this on opposite side is a large clear picture of a woman in hard hat.

THE COMPLAINT

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

The woman on the right is in a mid-drift I'm annoyed by this advertising a woman to show equality in the work force then tie her shirt into a mid-drift! Is this the only way this company could accept woman in their staff. This is the type of misogyny that we all need to change. This is not acceptable.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this





advertisement include the following:

In July 2016 our business was re branded with a new name and logos, along with photo shop materiel that was used to provide a pictorial demonstration of our business. We are a Labour hire business that services the Civil and construction industries which includes Administration staff, labourers of varying skills and trades people.

My Business partner and I agreed on an approach that would demonstrate that we were in a labour hire business. So we obtained photo stock of a group of people dressed in work gear/uniforms that relates to a number of industries. We then looked for an image that would best reflect that we are a people business that is about diversity in roles and gender neutral.

In addition it needed to draw attention to our business name. we looked at other images of males but found that they weren't as strong as this one to represent equality and diversity of job skills. In our view and having had discussion (prior to using the material) with a number of employees and peers we do not feel that the images are in anyway sexist. Our intention is to draw attention to the brand not to offend.

We have four cars branded this way that drive all over metro Melbourne and regional Victoria. Thousand of people will have seen these. Our Website and social media pages are branded similarly. We have not received a complaint in three years.

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 concern that the advertisement is discriminative towards women.

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

The Panel 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 Panel noted the complainant’s concern that the advertisement is misogynistic



towards women and implies that dressing in the manner depicted is the only way the woman in the advertisement would be accepted in the workplace.

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

“Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule.”

The Panel noted this transport advertisement features a group of people who are slightly blurred, and a woman that is the focus of the advertisement who is wearing a hardhat and has tied her shirt at her waist.

The Panel noted that the image is in black and white, and that the image does not clearly show the woman’s navel. The Panel noted that it was possible the woman was wearing a white shirt under the tied shirt.

The Panel considered that most members of the community would not consider the portrayal of the woman to be humiliating or inciting hatred, contempt or ridicule of the woman in the advertisement or women in general. The Panel considered that the woman is not shown to be treated unfairly or less favourably than the other people in the advertisement, or people in general.

The Panel considered the advertisement did not portray the woman depicted in the advertisement in a negative way, and would not lead most reasonable members of the community to think less of the woman in the ad or women in general. The Panel determined that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person on account of gender and did not breach Section 2.1 of the Code.

The Panel noted that advertisers are free to use whatever images they like in advertising, providing that such images comply with the terms of the Code. The Panel considered that it was unnecessary for the woman to be shown in a tied off shirt, and that the advertisement could have been cut off slightly higher so as to not show the woman’s midriff, however the majority of the Panel were of the view that the depiction was not a breach of Section 2.1 of the Code.

The Panel considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: “Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people.”

The Panel first considered whether the advertisement used sexual appeal.

The Panel noted the transport advertisement features an attractive woman in a hard



hat and a tied off shirt that exposes her midriff. The Panel considered that the depiction is one which most people would consider to contain sexual appeal.

The Panel then considered whether the advertisement used sexual appeal in a manner that was exploitative of an individual or group of people.

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised. Degrading – lowering in character or quality a person or group of people.

The Panel noted that the advertised business specialises in labour hire.

The Panel considered that the woman in the advertisement was depicted standing confidently and giving a thumbs up to the viewer.

The Panel considered that the woman was not depicted as an object or commodity and that the focus of the advertisement was on the woman as a whole, standing giving a thumbs up to the viewer, rather than focussing on her body parts.

The Panel considered that the depiction of the woman did not lower the character or quality of the woman and did not degrade the woman, or woman in general.

On that basis, the Panel determined that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of an individual and did not breach Section 2.2 of the Code.

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

