



Case Report

1	Case Number	0110/11
2	Advertiser	Pure Envy
3	Product	Professional services
4	Type of Advertisement / media	Billboard
5	Date of Determination	13/04/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

Image of woman wearing a bikini with her arms raised above her head and her hair covering most of her face. The accompanying text reads, "\$25 Spray Tans. Pure Envy Hair - Tanning - Beauty. PH: 3285 2632 www.spraytancentral.com. 1255 Anzac Ave, Kallangur."

Second image is of a woman wearing black underwear and a white shirt. She is holding on to her bra straps and appears to be shouting.

THE COMPLAINT

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

As a school teacher and woman I feel these posters/billboards are sending the wrong message to the youth of our country.

As a high school teacher I deal with student issues on a daily basis that relate to body image eating disorders and a constant battle to 'look like' the women in the media.

The women on Pure Envys shop exterior are an unrealistic portrayal of women. It is one thing to have women like this feature in magazines and on television programs however on a busy road where viewers are not given a choice is not acceptable.

Bullying at schools is a major problem these days; there are thousands and thousands of young women how either drive past walk past or cycle past this shop every day. As there are thousands and thousands of young women who battle with depression over their weight trying to achieve unrealistic bodies like the ones on Pure Envys shop. Should these young

women be pushed into the danger zone of depression? suicide? or the beginning stages of an eating disorder? Simply because they are reminded of what they are not everyday perhaps even more than once a day.

I have students at school confide in me about these issues regularly and they have mentioned these posters/billboards. It would be neglectful to ignore their concerns. We need to help the youth to be healthy not encourage them to develop issues to this extremity.

Parents/ guardians can to an extent control what their children read and watch when in their care what they can't do is control how shop owners advertise their products.

The community relies on departments such as the Advertising Standards Bureau to do something about this.

THE ADVERTISER'S RESPONSE

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

Thank you for your correspondence of 29 March 2011 regarding a member of the public's complaint about my business' outdoor advertising. I appreciate the opportunity to receive feedback on my salon's business and I take seriously any genuine complaints.

Please find my response below.

Executive summary

About the business: Pure Envy is a Brisbane-based beauty salon providing clients a range of personal and beauty care services. Central to Pure Envy's branding is its spray-tanning service. Pure Envy has established its consistent corporate branding imagery on the internet, in print and in outdoor advertising. The consistency of the corporate branding across advertising media is good business sense; it reinforces the image of Pure Envy in the marketplace and also clarifies the message rather than confusing the consumer with conflicting messages and provides a distinction from its competitors.

Pure Envy's advertising images presented to the market are directly indicative of the quality of professional beauty services available from Pure Envy. These images are tangible to Pure Envy's core business.

About the complaint: On 17 March 2011 a complaint about Pure Envy's outdoor advertising was presented to the Advertising Standards Bureau. The complaint has been made under the Australian Association of National Advertising Code of Ethics: section 2.3sex/sexuality/nudity (the Code). It can be shown that this complaint is inadmissible under that section and that this advertisement does not breach the code on the grounds of sex and nudity.

The complainant has also relayed public health concerns to give legitimacy to the complaint. This has not been addressed under The Code. Nonetheless, it can be shown that the complainant has failed to demonstrate concrete evidence to link her concerns about public health with Pure Envy's outdoor advertising.

About the response: My response to each of the dot points you listed in your letter are listed beneath the sub-headings below Part One. I have also addressed the complainant's points by citing them in italics and responding with "comprehensive comments" as requested.

Additionally, as suggested, I have also addressed the claims that my advertisement that fall broadly within Section 2 of the Australian Association of National Advertising Code of Ethics below the heading Part Two.

Comprehensive comments in relation to the complaint (taking into account the need to address all aspects of the advertising codes)

Complainant's first point

"As a school teacher and woman..."

This argument is what is known as an argumentum ad verecundiam or an appeal to authority. In the advertising game it is what it known as a testimonial. While testimonials may be effective in advertising, they are not always effective in reasonable and intelligent discussions. That a person claims to be "a school teacher and a woman" does not make one infallible, nor does it make one's opinion any more valid – or less valid – than the opinion of others. The complainant seems to be expressing more than just an opinion by intimating that her occupation and gender make her an expert on eating disorders. As the next discussion will show, eating disorders are a complex mental health problem. Unless the complainant is a psychiatrist, the complainant is not qualified to have an expert opinion on the subject. As such, the complainant's claim to authority is, at best, dubious and therefore dismissible.

Complainant's second point

"...I deal with student issues on a daily basis that relate to body image, eating disorders and a constant battle to 'look like' the women in the media...As [sic] there are thousands and thousands of young women who battle with depression over their weight trying to achieve unrealistic bodies like the ones on Pure Envy's [sic] shop. Should these young women be pushed into the danger zone of depression? suicide? [sic] or [sic] the beginning stages of an eating disorder? Simply because they are reminded of what they are not everyday, perhaps even more than once a day. [sic]"

Eating disorders are a legitimate public health problem and I empathise with the complainant's concern. However, the complainant demonstrates a very naïve and simplistic understanding of eating disorders. Eating disorders are not over-zealous dieting or associated with an extreme aesthetic as frequently postulated in tabloid media pop-psychology. Eating disorders are a mental illness frequently associated with the patient's desire to maintain physical control over a nominally uncontrollable aspect of their lives. Their failure to manage control is instead manifested in the metaphorical association of their body with the illusion of control. In other words, controlling the body and resisting the urge to eat empowers the sufferer and replaces the sufferer's sense of disempowerment.

Eating disorders have been traced back through the course of humanity long before the appearance of outdoor advertising. Before eating disorders were pathologised by modern medicine, self-starvation can be observed in Western society as far back as medieval times, associated with traditions of self-denial through fasting. This phenomenon represented the fasters' refusal to partake of "indulgences" and to "sin" through food. The fasting practices of female saints approximate the practices involved in self-denial of food by women diagnosed with anorexia nervosa in the late twentieth century.

*What is known today as anorexia nervosa, became the focus of intense medical attention only when prominent physician to Queen Victoria, Sir William Gull (1816-1890), published his text *Anorexia Hysterica*. Gull later coined the term *anorexia nervosa* to distinguish the disorder from the umbrella term "hysteria." His conclusion that *anorexia nervosa* was a psychological disorder was immensely significant. Previously, self-starvation was associated with different traditions like theology or folklore, but his work moved the study of *anorexia nervosa* into the field of psychiatry.*

The other well-known eating disorder, bulimia, has been described in ancient texts with references to bingeing and purging appearing among the recommendations of ancient

Egyptian physicians and appearing in the Hebrew Talmud (AD 400-500). Once again, it is only in modern times that bulimia has been identified as a mental illness.

Contemporary scholarly research indicates that child sexual abuse is linked to a greater likelihood of developing eating disorders in adolescence.

This discussion has shown that the complainant has presented a classic argumentum post hoc ergo propter hoc, also known as the logical fallacy. That there are images of women in my outdoor advertising and that the complainant claims to have observed eating disorders does not mean that the two phenomena are linked, nor does it indicate causation. Indeed, she has failed to show a distinct causal link between eating disorders and outdoor advertising images of women. Disturbingly the complainant's over-simplification of eating disorders suggests that she lacks sensitivity for the complexity for a mental illness that may be linked to child sexual abuse and, by trivialising this condition, she shows an inadvertent contempt for eating disorder sufferers.

Complainant's third point

"It is one thing to have women like this feature in magazines and on television programs, however on a busy road, where viewers are not given a choice is not acceptable."

It has to be questioned why a pedestrian or motorist on a "busy road" is not watching the road – especially if they have children in their car – and instead looking at signage. My signage is aimed at my clients, not passing motorists. There is much too much text on the signs to be relevant to motorists.

Complainant's fourth point

"Bullying at schools is a major problem these days; [sic] there are thousands and thousands of young women how [sic] either drive past, walk past or cycle past this shop every day."

Given the complainant's previous demonstrably poor use of punctuation, it is problematic to ascertain if the complainant's use of the semi-colon in this sentence is to denote a link between "bullying" in schools and the passing of vehicle and pedestrian traffic near my business premises. If it is assumed that the complainant is conversant with the proper use of the semi-colon, then the complainant has again failed to explain the connection between the two phenomena. Bullying is a form of violence and no reasonable person could rationally extrapolate that my outdoor advertising signs promote or condone violence. This particular complaint is both an extraordinary and mystifying non sequitur.

Complainant's fifth point

"I have students at school confide in me about these issues regularly and they have mentioned these posters/billboards."

This is pure conjecture and is, at best, hear-say. The complainant has not offered any tangible evidence of this claim. This is a classic argumentum ad populum.

Complainant's sixth point

"Parents/ guardians can to an extent control what their children read and watch when in their care, what they can't do is control how shop owners advertise their products."

My business' outdoor advertising is aimed at adults and not children. Parents are the most influential persons in a child's life. It is not up to advertisers to guide children's interpretation of signage. My outdoor advertising is tangibly linked to the services offered by my business. The models depicted are typical of contemporary tastes, decency and standards in outdoor advertising.

Part Two – Australian Association of National Advertising Code of Ethics

The complainant has raised this issue under section 2.3sex/sexuality/nudity under the Code.

As such, only this section of the Code I have addressed.

I refute the legitimacy of the complaint.

My salons offer a range of beauty treatment services but my branding and marketing directly concerns my core business; spray tanning. I have established a high profile in this market

niche. Tanning still remains chic and desirable in contemporary society but the fatal dangers associated with sun tanning are widely known. My business offers a service to clients who desire a safer and attractive alternative to sun tanning. Tanning remains associated with outdoor lifestyles, warm climates and swim-wear and this is represented in my iconic advertising. For my business to be successful, I rely on outdoor advertising placements outside my shopfronts that identify my business and to target my market; the client who wants to have the appearance of an all-over tan without the health risks associated with sun-tanning.

The Outdoor Media Association reports: "It has been demonstrated that using a brand icon in an outdoor advertisement makes it 40% more memorable than not using a brand icon, and no other medium can turn a product or service into a brand as cost-effectively as Outdoor." My business' website and my Facebook page also uses the same iconic symbols. The Outdoor Media Association also reports that outdoor advertising "...provides a path to purchase, reinforces brand messages from other media closer to point-of-purchase." My outdoor advertising images are inextricably linked to my other advertising on the internet and in print for a consistent corporate image and branding. It helps to identify my business and set it apart from competitors.

My clients are frequently nude or near-nude when they are spray-tanned so that the skin surface of the entire body is treated. This clearly suggests that that my clients have a reasonable expectation to be informed about how the product will appear on bared skin rather than how they will appear when fully clothed. To follow that to a logical conclusion, it makes sense for my business to present a model in attire that best presents the quality of my spray tanning services as this is aligned to my clients' expectations. From a marketing perspective, it would be ineffective and not good business sense if I did not present the potential end results that clients can expect from my salons' services.

Most importantly, the models used in my outdoor advertising are not nude; they are partially clothed for the legitimate reasons discussed already. There is no reference to sex nor sexuality. As such, the complaint has no validity under this section of The Code.

Closing comments

In closing, it is my observation that the complainant's motives are unclear. If the complainant has a genuine public health concern, then the complainant has addressed these concerns poorly and unconvincingly. If I am permitted to speculate, I would venture that the complainant's motives are, at best, censorious and, at worst, vexatious. Both motives are should not be rewarded nor encouraged in a liberal, democratic society because they at odds with the right to free enterprise and freedom of expression. I understand that it is not the Board's role to examine complainants' motives and so I have directed my attention to the complainant's claims and the relevant section of The Code.

I trust that this information has been of use to the Board and I am pleased to have been able to present my views to assist the Board's decision.

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 an unrealistic portrayal of women and can contribute to young women's battles with depression over body image.

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

The Board noted that the images used on the signage on their building are images used by two tanning suppliers in Australia and that the depiction of women in swimwear with their tanned skin revealed is relevant to the product being promoted ie: spray tanning.

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 considered that the images of the women were posed but were not posed in a sexualised manner as the context of the images was clearly in the context of spray tanning and nice hair. The Board considered that the advertisement as directed to women and intended to convey a feeling of beauty and feeling good as a result of the services being provided. The Board considered that the images were not sexualised and did not breach section 2.3 of the Code.

The Board also considered whether the advertisement was in breach of section 2.6 of the Code. Section 2.6 of the Code states: Advertising or marketing communications shall not depict material contrary to prevailing community standards on public health and safety.' The Board noted the complainant's concern that the depiction of a slim woman in a bikini is harmful to young women. The Board considered that the women in the advertisements, while slim, were not depicted in a manner that suggested an unhealthy weight. The Board agreed that there are many women and young women in society who do not have the body shape of the models used in the advertisement however there is no prohibition on advertisers from using slim women in advertising nor any positive obligation for advertisers to use larger women as models. The Board considered that the advertisement did not depict unrealistic or unhealthy body weight or shapes and did not breach section 2.6 of the Code.

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

