



Case Report

1	Case Number	0111/17
2	Advertiser	Jenny Craig Weight Loss Centres Pty Ltd
3	Product	Slimming
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	08/03/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Physical Characteristics
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features the testimony of Tenille, a real client of Jenny Craig who lost 13kg on the program, and who explains her experience with Jenny Craig. During the Advertisement, Tenille comments that “once you improve yourself you improve everything you do”.

THE COMPLAINT

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

for the first time ever I heard them openly state how good it was to "improve yourself" by losing weight. The very plain corollary was that fat people were disimproved. True or not, it is very offensive and discriminatory to fat people.

THE ADVERTISER'S RESPONSE

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

Most importantly, Jenny Craig had no intention of discriminating or vilifying anyone on the basis of their physical characteristics, and feel that the comment that “once you improve yourself you improve everything you do” in the Advertisement has been taken out of context.

This part of the Advertisement included a real Jenny Craig client, Tenille, describing her weight-loss journey and how it made her feel. Tenille lose 13kg with Jenny Craig, and this part of the Advertisement was not scripted, it was instead created based on the spontaneous comments from Tenille, as a successful client, and therefore represents client testimony. Tenille goes on further to state “I feel like it’s just changed my whole life”, which further shows that this is her own personal experience and testimonial, based on the results achieved on the Jenny Craig program.

Furthermore, as requested, Jenny Craig has not limited its responses to the specific issues raised by the individual complainant, but has also provided responses to all of Section 2 of the AANA Code of Ethics for further and complete consideration.

a. AANA Code of Ethics

To the best of Jenny Craig’s knowledge, the Advertisement does not:

- i. contravene any Commonwealth or State laws;*
- ii. mislead or deceive (clause 1.2);*
- iii. contain a misrepresentation likely to cause damage to the business or goodwill of a competitor (clause 2.3);*
- iv. exploit community concerns in relation to protecting the environment by portraying distinctions in products or services advertised in a misleading way or in a way which implies a benefit to the environment (clause 1.4);*
- v. make claims about the Australian origin or content of products advertised in a manner which is misleading (clause 1.5).*

b. Section 2.1 – Discrimination or Vilification

Jenny Craig notes that this is a section that has been identified by the Advertising Standards Bureau as one that is subject of the Complaint. However, as highlighted above, Jenny Craig’s intention was not to discriminate or vilify any person, and instead only showed the testimony of a successful client from its program.

Ultimately, Jenny Craig does not feel that the Advertisement portrays people or depicts material in a way which discriminates against, or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, religion, disability, mental illness or political belief. Again, the Advertisement simply airs the testimony of a successful client.

c. Section 2.2 – Exploitative and Degrading

The Advertisement does not in any way employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

d. Section 2.3 – Violence

The Advertisement does not in any way present or portray violence.

e. Section 2.4 – Sex, Sexuality and Nudity

The Advertisement does not in any way include sex, sexuality or nudity.

f. Section 2.5 – Language

The Advertisement does not in any way use inappropriate or obscene language.

g. Section 2.6 – Health and Safety

Jenny Craig notes that this is a section that has been identified by the Advertising Standards Bureau as one that is subject of the Complaint. However, Jenny Craig’s intention was certainly not to depict material contrary to the Prevailing Community Standards on health and safety.

In fact, Jenny Craig in no way encourages or endorses unhealthy weight loss practices. All clients are screened to health conditions to ensure that Jenny Craig is medically and nutritionally appropriate, as stipulated in the weight management code of practice. Furthermore, the Advertisement makes no mention of, nor does it imply, that more overweight people are in any way inferior or require improvement. Again, the Advertisement was purely based on the real life client testimony of Tenille, and this is how it made her feel to lose the weight that she lost on the Jenny Craig program.

Finally, in the Advertisement Jenny Craig is not promoting weight-loss to unhealthy levels, and therefore Jenny Craig does not believe that the Advertisement depicts material that is in any way contrary to any Prevailing Community Standards on health and safety, specifically healthy weight or weight loss.

Also, despite the fact that Jenny Craig does sell food as part of its program, it does not believe that it has breached any of the requirements in the AANA Food & Beverages Advertising & Marketing Communication Code, in particular because the Advertisement is designed as a brand and service advertisement, which specifically advertises the Jenny Craig program and the current offer in market, being the \$10 program fee, and not a specific food or beverage product.

In addition, Jenny Craig does not consider that the AANA Code for Advertising and Marketing Communications to Children applies. When considering the definition of this Code, the Advertising and Marketing Communication is not directed primarily to children, having regard to the theme, visuals and language used, and is not for a Product.

Finally, Jenny Craig is not a licensed wagering operating for the purposes of the AANA Wagering Advertising and Marketing Communications Code, and therefore has not addressed these requirements.

I trust that the information provided in this response is sufficient for consideration by the Advertising Standards Board and the forthcoming meeting, however if you require any additional information or documentation, please let me know.

THE DETERMINATION

The Advertising Standards Board (the “Board”) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that the advertisement features material that is offensive to people who are overweight.

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

The Board 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 Board noted that this billboard advertisement features a woman providing a testimonial about her own success with the program. The woman mentions that "once you improve yourself, you improve everything you do." The text appears on screen with a before photo that states "Tennille lost 13kg on Jenny Craig."

The Board noted that the woman is sharing her story and is speaking positively about her own experience. The Board noted that the reference to "improving yourself" is a personal reference from Tennille and is not intended to represent a broader group of people or suggest that people who are overweight need to "improve" themselves.

The Board noted the advertiser's response that the comments from Tennille were unscripted and are a reflection of her own journey. In the Board's view the comments from Tennille would be understood by most members of the community as a reference to her own feelings about her weight loss and the fact that she feels she has improved her life by losing weight.

Overall the Board considered that the advertisement was not generalised commentary about a group or section of the community and did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of their lifestyle choices or physical characteristics and did not breach Section 2.1 of the Code.

The Board then considered 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 health and safety".

The Board noted that the service being advertised is a weight loss business and that the promotion of a business of this nature is legal. The Board noted that the type of business operates within a regulated industry and the way the programs are designed and implemented is not for the Board to comment on.

The Board considered that the advertisement did not depict anyone doing anything dangerous or unsafe and did not depict material contrary to Prevailing Community Standards on health and safety and determined that the advertisement 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.

