



Case Report

1	Case Number	0117/11
2	Advertiser	Strangeloves
3	Product	Restaurants
4	Type of Advertisement / media	Billboard
5	Date of Determination	13/04/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

Strangeloves Wine Bar exterior wall showing aerosol spray art depicting Peter Sellers as Dr Strangelove holding a lit cigarette. The words "Wine Bar" are written down the sides of the advertisement.

THE COMPLAINT

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

The depiction of Peter Sellers smoking a cigarette is obscene and indirectly defies Victorian law that bans cigarette advertising portraying smoking as glamorous. Doctor Strangeloves Wine Bar might provide on the premises places for people patrons to smoke but it is brazen to show this aspect of the movie. They may think it is clever as it shows their favourite actor in a relaxed pose and this would translate to business being accommodating to smokers. I believe it lets people coming to the precinct feel comfortable to smoke and makes it harder for the antismoking lobby.

THE ADVERTISER'S RESPONSE

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

The picture was chosen to represent the name of the business. The choice of name was decided by the two owners who are fans of both the director Stanley Kubrick and the actor Peter Sellers.

We had a choice of two pictures that we felt could reflect the Wine bar – one showing Sellers as an ex Nazi scientist (now working for the US government) in a scene from the “war room”. He is depicted with a maniacal grin on his face whilst holding a cigarette. The alternative picture was available in portrait format (vertical) and not entirely suitable for our purposesit depicts Strangelove attempting self mutilation insofar as he is trying to strangle himself after trying to control himself from performing a Nazi salute. When considering the choice we both felt that self strangulation was a bit hard to explain and is kind of weird, so the choice was the smoking picture.

Firstly, we would like to apologise for any offence we have caused to the complainant. We never thought of the picture as being “obscene” and would not have put it up if that was the case. We would like to point out some things that came to light when reading the complaint, and accordingly exercise a right of reply.

Dr Strangelove is smoking a cigarette in the sign. We feel he does not look relaxed – rather he is reflecting his character – an insane ex Nazi scientist with the grin of a maniac. The sign reads “Wine Bar” - it does not advertise “cigarettes”. In context the picture shows a character from a 1960s movie. Referring to Victorian Law relating to cigarette advertising we were given advice (not checked by a lawyer) that signs that glamorise smoking could be considered offensive – this normally pertains to modern use and can, circumstantially, exclude period images both still and moving that reflect a different era.

We are not sure how we should interpret the use of the words “they think they are being clever” and can suggest in replying that we were not being provocative – we tested the image with a number of associates and had only a small percentage of people remark that it showed someone smoking and might be perceived negatively. All agreed however that it was the best choice of picture to use.

In responding to the point about our business accommodating smokers: we built a courtyard in the rear section of the bar that FULLY complies with Vic Health regulations and has been inspected by the Health Division of Moonee Valley Council. This was done at considerable expense, and ironically, by the two owners who are NON Smokers. It was in our belief that it would be the best thing to offer the 10 -20% of our customers who smoke a comfortable dry area that does not impose on the pedestrian traffic out the front of the bar when they want to smoke.

Again, from a personal view, the sooner smoking is banned the better off everyone will be – no disagreeing with the complainant there. However, from a business point, smokers still seem to enjoy a nice glass of wine like non smokers and we do need their business until the option to smoke is fully removed by law.

Finally, we would like to offer an olive branch to the complainant (we are nearly neighbours after all). We need to advertise our business and cannot at this early stage (8 months old) replace the sign.

What we would like to do is put a strip across the offending cigarette on the sign. This would cover up the cigarette but not the smoke. As we are all aware the sign was put up to attract attention and we need to generate attention being new in the area. To do this successfully – and in a “creative” way - we would like to use the word “censored” on the strip covering the cigarette. This, we humbly suggest, will result in a “win/win” for both parties.

Also (and we are not sure if the complainant enjoys a nice glass of wine) we would like to invite the complainant down to the bar for a couple of drinks on us, where we can go over any other issues he may like to raise.

Trusting that this is a satisfactory response for both the complainant and the ASB.

THE DETERMINATION

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

The Board considered whether the depiction of a person who appears to be smoking a cigarette was a depiction of material that contravened community standards on health and safety. The Board noted that government policy is to reduce the exposure of the public to messages and images that may persuade them to start or continue smoking or use tobacco products. The Board considered that while the community tolerates a level of smoking it does not tolerate images which promote smoking as glamorous or cool.

The Board noted that the image in question is a drawn image which is intended to evoke the actor Peter Sellers as Dr Strangelove in a well known movie role. The Board noted that this image was relevant to the name of the advertised premises.

The Board noted its strong view that images that glamorize smoking should not be permitted as they are a depiction of material contrary to prevailing standards on community health and safety and contravene section 2.6 of the Code.

In this instance however the Board considered that the stylised but unrealistic drawing, which intended to evoke an iconic movie character and scene, was not glamourising smoking. On this basis the Board determined that the advertisement did not breach section 2.6 of the Code.

The Board noted the advertiser’s intent to obscure the cigarette and considered that this would be an appropriate, albeit voluntary, action to take in order to minimise any perception of condoning smoking.

On this basis the Board found that the advertisement did not breach section 2.6 of the Code and dismissed the complaint.

