



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0139/13</b>
<b>2</b>	<b>Advertiser</b>	<b>Westfield Group</b>
<b>3</b>	<b>Product</b>	<b>Retail</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Billboard</b>
<b>5</b>	<b>Date of Determination</b>	<b>01/05/2013</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

### DESCRIPTION OF THE ADVERTISEMENT

Billboard in a Westfield Mall showing a heavily photoshopped girl wearing a dress with the accompanying text of, "Share your selfie for a chance to win a trip to Paris".

### THE COMPLAINT

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

*The girl they have used is too skinny to the point her body is distorted and would belong to a girl who has anorexia. I believe that it is false advertising and unhealthy for young girls who believe that the body of the model is real and can be achieved or that it is even desirable to be so thin. I believe that it promotes anorexia and/or bulimia in young girls and should be removed.*

### THE ADVERTISER'S RESPONSE

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

*Response to complaint reference number 0139/13*

*We act on behalf of the Westfield Group, which has instructed us to respond to your letter of 18 April*

*2013, concerning the complaint received by the Advertising Standards Bureau (ASB) about our client's promotional "Selfies" competition (Competition).*

*The complaint alleges that the Competition raises issues under section 2.6 of the AANA Advertiser*

*Code of Ethics (Code) which provides that-*

*Advertising or Marketing Communications shall not depict material contrary to*

*Prevailing Community Standards on health and safety.*

*For the reasons set out below, our client strenuously denies that the Competition infringes section 2.6 of the Code.*

#### *Background to the Competition*

*The Competition is a national promotion conducted by our client during the period of 2 April 2013- 28*

*April 2013. The Competition targets women between the ages of 18 - 35, who have an interest in fashion, style and popular culture (Target Audience). The Competition is based on a study recently conducted by our client of 1,000 members of the Target Audience. A key finding of the study is that 62% of the women involved had taken a photograph of themselves, with the intention of sharing the image via social media. These photographs are popularly referred to as "Selfies". Further, 69% of the women involved in the study feel that Selfies are a way to showcase their fashion, style or looks. We enclose a copy of our client's media release dated 3 April 2013 that provides further details of the study.*

*The message conveyed by the Competition is that Westfield celebrates individual style, regardless of shape or size, by encouraging Competition entrants to "Style It, Snap It, Share It, Win It". There have been over 3,000 entries to date.*

*The Competition aims to complement Westfield's fashion services and celebrate women of all shapes and sizes, providing inspiration and guidance for shoppers' shape, style, personality, complexion and budget. Those services include personal style sessions with Westfield stylists, and the 'Style Kit', which consists of four "style tools" being the Body Shape Calculator, Style ID, Cost Per Wear Index and Beauty Report Card. In this regard, it is relevant to note that Westfield succeeds because its centres appeal to women of all ages, backgrounds and physical appearances.*

#### *The Competition*

*The Competition provides entrants with the chance to win a business class trip for two to Paris, including 5 star accommodation and \$5,000 spending money. Entrants must be Australian residents who are over 16 years of age.*

*To enter the Competition, eligible individuals must take a Selfie wearing a creative outfit in accordance with the enclosed Terms and Conditions of the Competition (Terms and Conditions). Entrants must then visit the Facebook page of their chosen participating Westfield centre, locate the "Westfield Selfies" application on the Facebook page, and then complete all of the requested information. Entrants are required to share information about their outfit by including the names of the retailers from which the elements of their outfit featured in their image have been purchased.*

*The Competition aims to provide fashion inspiration and foster individuality, empowering women to dress for their body shape, in turn promoting positive body image. The spirit of the Competition is intended to be fun, light-hearted and informative. The playful spirit is enhanced by the "Selfie Style Success" provided by Westfield's "fashion insider", Alyce Cowell, where she offers humorous and positive "golden rules". For instance, "golden rule" 6 states:*

*"Wear something you LOVE: Your body naturally sets itself in a posture that radiates confidence when you feel amazing and this will enhance your look even further. Choose something that fits you well and keep in mind that patterns can flatter you if there are some parts of your body you're less confident with..."*

#### *The complaint*

*Our client takes compliance with the Code very seriously. The Competition does not portray people or depict material in a way that is contrary to prevailing community standards on health and safety.*

*Does the Competition depict material contrary to Prevailing Community Standards on health and safety?*

#### *Prevailing Community Standards*

*The Code defines and interprets the term "Prevailing Community Standards" as follows:*

*Prevailing Community Standards means the community standards determined by the Board as those prevailing at the relevant time in relation to Advertising or Marketing Communications. Prevailing Community Standards apply to clause 2.1 - 2.6 below. The determination by the Board shall have regard to Practice Notes published by AANA and any research conducted by the Advertising Standards Bureau.*

*The Competition does not depict material that is contrary to the Prevailing Standards on health and safety.*

#### *Health and safety issues*

*A definition of what constitutes "health and safety" is not set out in the Code, meaning that the Board will apply the ordinary English meaning of the words and will also consider concerns raised by the complainant as well as other relevant factors.<sup>2</sup> The Board has noted in past ASB case reports that obesity, anorexia and body image are health issues of community concern.<sup>3</sup> However, neither the Competition, nor the model pictured in the Competition, normalise, promote or perpetuate any eating disorder, including anorexia or*

*bulimia.*

*Prevailing Community Standards on health and safety in the context of the Competition -*

#### *Section 2.6*

*Our client understands that eating disorders such as anorexia and bulimia are very serious, prevalent and important health issues within the Australian community. Accordingly, Westfield is extremely committed to the promotion of all body types, and aspires to provide guidance and give women confidence to appreciate their bodies.*

*The model is posing in a well-established Selfie pose, which involves the photographer holding the camera device above eye level and away from their body at approximately a 45 degree angle. It would be known among the majority of the Target Audience that this is a very common Selfie pose, for the reason that the angle makes its subject appear slimmer than they are in reality. Although the model does appear thin, she does not look unhealthy or unwell, as has been considered relevant in previous ASB case reports.<sup>4</sup> Further, the reason why the model may appear "distorted", as pointed out by the complainant, is also due to the angle at which the Selfie is taken.*

*As the Board is aware, the use of thin models is common practice in the fashion industry. Westfield is vigilant in ensuring that the models that are used in advertising and promotional materials are of a healthy body mass index, so that women are not depicted in a way that would be seen to condone unhealthy body weight. The model that is used in the Competition, Victoria Lee, has been used by Westfield in other campaign elements, including their Style Guide magazine. None of these images have received any shopper feedback or complaints, and we enclose 4 images from the Style Guide to demonstrate that she does not depict someone of an unhealthy weight.*

*Given this context, it is very unlikely that reasonable members of the community will consider the Competition to be portraying material that is contrary to Prevailing Community Standards on health and safety.*

#### *Other Considerations under section 2 of the Code*

*We note that in addition to considering specific issues raised by the individual complainant, the ASB Board will also review the advertisement in its entirety against Section 2 of the Code.*

#### *Use of the phrase "hottest outfit"*

*The term "hottest" in advertising has been considered by the ASB in past case reports, specifically raising potential issues under sections 2.1, 2.2 and 2.4 of the Code.<sup>6</sup> However, we note that these cases involved a consideration of the term "hottest" in the advertisement of men's magazine Zoo Weekly and strip clubs. The use of the term "hottest" is clearly distinct in these complaints from the context of "hottest outfit" used in the Competition.*

*The Competition instructs the entrant to "upload a photo in your hottest outfit". The term "hottest" is a popular and widely used phrase amongst the Target Audience. "Hottest" is defined in the Macquarie dictionary to mean "new; recent; fresh", "fashionable and exciting"*

*and "currently popular". Whilst the term can also be taken to mean "sexually exciting; lustful", we maintain that in this context, given that there is a direct and obvious link between the terms "hottest" and "outfit", the Competition is clearly encouraging entrants to tap into the newest and most exciting fashion trends. Further, the image of the model is not sexualised in any way.*

*This is supported by the judging criteria contained in clause 10 of the Terms and Conditions, where it is stated "entries in each round will be individually judged on the aesthetic qualities of image and outfit choice, creative flair of outfit, and seasonal trends/hero pieces...". In order for an individual to enter the Competition, they are required to have read the Terms and Conditions of the Competition, and clause 10 clearly provides a focus on the outfit that entrants submit, rather than the entrant themselves.*

*1 The Westfield 'Style It, Snap It, Share It' Report, Launch date 11 March 2013, sample size 1000 people, key findings on page 3.*

*2 ASB determination summary, "Health and safety in advertising", March 2012, p1.*

*3 0258/11 (Colgate Palmolive Pty Ltd).*

*4 0480/11 (Surf Dive n Ski); 0477/11 (SABA); and 0258/11 (Colgate Palmolive Pty Ltd).*

*5 See for instance, 0480/11 (Surf Dive n Ski).*

*e See for instance, 0139/11 (Kittens); 0222/11 (EMAP Australia Pty Ltd); and 0507/10 (EMAP Australia Pty Ltd)*

## **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 depicts an image of a thin girl which is contrary to prevailing community standards surrounding healthy body weight.

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

The Board 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 the advertisement features an image of a female modelling a dress and her arms appear to be very thin.

The Board noted that female model used in the advertisement does appear to be very slim and that the advertiser's response stated that she is depicted in a manner which suggests that she has taken a 'selfie' hence the 'out of proportion' nature of the image with the head appearing

too large for the body.

The Board noted that in the fashion industry it is common to use models that are slimmer than the average person and considered that in this instance, whilst the distorting effect of the way the model is photographed makes her appear very slim, she does appear to be healthy and the image is consistent with similar fashion advertising. The Board considered that the image does not encourage or condone eating disorders.

The Board noted that the advertisement features an invitation to upload ‘selfies’ in order to win a trip to Paris and that the Board had previously upheld an advertisement featuring a similar request (0376/12). The Board considered that an advertisement encouraging people to upload photos of themselves is not of itself problematic and that in this instance, unlike case 0376/12 which was for an underwear company, the advertisement makes it clear that you should be wearing clothing (“hottest outfit”). The Board considered that in the context of a fashion advertisement encouraging the uploading of an image of a person wearing an outfit the advertisement does not encourage behaviour which is contrary to prevailing community standards on health and safety.

Based on the above the Board determined that the advertisement did not breach Section 2.6 of the Code.

Further finding that the advertisement did not breach the Code on any grounds, the Board dismissed the complaint.