



## Case Report

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| <b>1</b> | <b>Case Number</b>                   | <b>0162/13</b>                           |
| <b>2</b> | <b>Advertiser</b>                    | <b>The Professionals</b>                 |
| <b>3</b> | <b>Product</b>                       | <b>Real Estate</b>                       |
| <b>4</b> | <b>Type of Advertisement / media</b> | <b>Outdoor</b>                           |
| <b>5</b> | <b>Date of Determination</b>         | <b>22/05/2013</b>                        |
| <b>6</b> | <b>DETERMINATION</b>                 | <b>Upheld - Modified or Discontinued</b> |

### ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.6 - Health and Safety Within prevailing Community Standards

### DESCRIPTION OF THE ADVERTISEMENT

A billboard featuring information on real estate for sale. The image on the advertisement is of a man wearing a cream coat, socks and shoes. He is viewed from behind and has his legs apart and he is holding the coat open. The words, "Expose Yourself!" are written across the image.

### THE COMPLAINT

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

*I find this ad offensive. It is using a criminal offence to sell property. Real estate companies should not have to resort to this type of advertising. Exposing yourself should be condemned. It is a grubby sign. Children should not have to see this ad, which is on a main road.*

### THE ADVERTISER'S RESPONSE

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

*This advertisement was produced with a "play on words" concept due to the high level of exposure that the property for sale offers. The content and graphic used was in no way designed to cause offence and was in no way deemed inappropriate or of any sexual nature nor is there any nudity portrayed.*

*After discussion with the complainant we have made the decision that we will remove the signboard in question and that it will be replaced without the graphic at the centre of this complaint.*

## **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 concern that the advertisement depicts an offensive image of a man flashing which is a criminal act and is not appropriate for viewing by children.

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

The Board noted the advertisement depicts a photograph of a man from behind holding his coat open and the words, "Expose Yourself!" are written across the image.

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience".

The Board noted that it is not possible to see what the man is wearing under his coat and considered that whilst the combination of the style of coat and the man's bare legs do amount to a commonly held perception of what a "flasher" looks like there is no detail. In the Board's view the image does suggest nudity but that this suggestion in the context of an image showing no detail is mild in terms of any depiction of sex, sexuality or nudity and is not inappropriate for a broad audience which would include children.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and determined that the advertisement did not breach Section 2.4 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 the use of the words “expose yourself” and the image of the man are consistent with a depiction of ‘flashing’. The Board noted that this is a depiction of behaviour which is illegal and that the text ‘expose yourself’ was condoning if not encouraging such behaviour. The Board considered that the suggestion of ‘flashing’ is clearly intended, in the context of the real estate signage, to relate to the property and its marketing. However the Board considered that the depiction and suggestion of condoning ‘flashing’ is a depiction of material that is contrary to prevailing community standards on health and safety.

The Board determined that the advertisement depicts material that is contrary to prevailing community standards on safety and did breach Section 2.6 of the Code.

Finding that the advertisement breached the Code, the Board upheld the complaint.

#### **ADVERTISER RESPONSE TO DETERMINATION**

I acknowledge the Board’s decision to uphold the complaint. The advertisement in dispute has already been removed (prior to the Board’s decision) and we do not intend to use that advertisement again.