



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0173/10</b>
<b>2</b>	<b>Advertiser</b>	<b>Brindabella Hearing</b>
<b>3</b>	<b>Product</b>	<b>Health Products</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>12/05/2010</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.1 - Discrimination or Vilification Gender

### DESCRIPTION OF THE ADVERTISEMENT

A man is watching television with his friends. Tracey enters and asks if they would like some dinner. The man mishears and replies that 'yes she does look thinner'. End tag with Brindabella Hearing Centre contact details.

### THE COMPLAINT

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

*I found the advertisement sexist in the extreme in a fairly obvious sense:*

- assumption that men lounge around the house and only men watch sports*
- assumption that women's sole function in the household is cook/wait on men*
- comedy revolves around women being irrationally/childishly concerned with their looks/weight.*

*The ad had no tangibly relevant details about the service advertised.*

### THE ADVERTISER'S RESPONSE

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

*This commercial is a 15sec cutdown of a 30 sec US commercial that is used by the US supplier to Brindabella Hearing Centre. The local version of the advertisement has been tagged with Brindabella Hearing Centre's details. The message in the advertisement is gentle and wryly humorous. A main character mis-hears a question and answers a different question. This emphasises the need for the services offered by the Brindabella Hearing Centre.*

*We consider that the content of the advertisement is of direct relevance to the hearing products offered by the Brindabella Hearing Centre. However the complainant disagrees and alleges that the advertisement is sexist.*

*We do not agree with the complainant's assertions about the "assumptions" that she claims the advertisement relies upon. We do not know why the complainant claims that the advertisement assumes, for example that "only men watch sports" and that "women's sole function in the household is to cook/wait on men". The advertisement is not based on those assumptions and does not convey those strong and undesirable messages. Further we do not see the link between the male character's response to the question and the complainant's assertion that this suggests that women are "irrationally/childishly concerned with their looks/weight". The complaint appears to misconstrue the contents of the advertisement. We have noted that the relevant requirement under section 2 of the AANA Code of Ethics is that "advertising or marketing communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of sex".*

*Our view is that the advertisement does not discriminate against or vilify women.*

*In order to establish "discrimination" or "vilification" has occurred, objective legal tests must be satisfied. The ASB will be well aware of the body of case law that acts as a guide to how those legal tests should be applied. These are high threshold tests, and the advertisement does not satisfy those tests. On that basis, we strongly disagree with any suggestion that the advertisement breached the AANA Code of Ethics.*

## **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 is sexist and demeans women and men.

The Board viewed the advertisement and noted the advertiser's response. The Board considered whether the advertisement was in breach of section 2.1 of the Code. Section 2.1 of the Code states: "Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief".

A minority of the Board expressed concern, that the man who is hard of hearing is made to look silly as a result of his loss of hearing, when he responds to the woman's offer to make dinner with "yes Tracy you do look thinner".

However, the majority of the Board noted that the advertiser's intention is to depict what could be a typical situation - with a man watching sport on television with his mates and the woman doing chores and cooking for the family. The Board agreed that this advertisement does depict both the man and woman in stereotypical roles but considered that the stereotypes are not presented in a manner that is demeaning or negative. The Board considered that most members of the community would be able to clearly understand the advertisement's depiction of this particular situation and take a humorous approach to the advertisement. The Board determined that the advertisement did not depict any material that discriminated against or vilified any person or section of society on account of their gender. The Board determined that the advertisement did not breach section 2.1 of the Code.

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