



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0188/11</b>
<b>2</b>	<b>Advertiser</b>	<b>Enhance Clinic</b>
<b>3</b>	<b>Product</b>	<b>Professional services</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Billboard</b>
<b>5</b>	<b>Date of Determination</b>	<b>08/06/2011</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheld - Modified or Discontinued</b>

### ISSUES RAISED

- 2.6 - Health and Safety within prevailing Community Standards
- 2.3 - Sex/sexuality/nudity Treat with sensitivity to relevant audience
- 2.1 - Discrimination or Vilification Sex

### DESCRIPTION OF THE ADVERTISEMENT

White sign with a naked lady in colour on it. She has a hand between her legs obscuring her private parts and the text describes the services on offer at Enhance Clinic.

### THE COMPLAINT

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

*A naked woman dominates the billboard. She is in a very sensual position. I find it very offensive to have to see a naked women in such a position every time I walk out. Other plastic surgeons have simple signs with their name and qualification no naked people. The advertisement gives the wrong message implying that everybody should look like this woman and if not one should go to them for treatments. If the porn shop on the same street had a picture like that they would have to take it down.*

*There is an increase in eating disorders among young women and increasing in children down towards 11 and younger. The acceptance of advertising like the one <http://www.enhanceclinic.com.au/> has in front of their surgery contributes to this problem.*

## **THE ADVERTISER'S RESPONSE**

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

*The sign in question is quite tasteful, and does not discriminate against any of the above. The person in the picture is a staff member who is a personal trainer and sports fanatic. Her image is that of a very healthy young lady. A great example to our youth of today.*

*We are a cosmetic surgery and our image is quite important, we do intimate surgery for woman and predominantly below the waist. In this picture, the person is naked but it's blurred, and no body parts are shown. For example you cannot see nipples of boobs or any hair or private parts. We would consider this a tasteful way of advertising our type of business.*

*We are very accommodating to different cultures and religions due to the various types of sensitive procedures that we do, and our signs need to accommodate to all of them. The sign is meant to bring us business by ensuring passersby know what we do, we chose to use this image as we think it ensures we doesn't discriminate, as we cater for all ages, from young ladies to the elderly, male and female and our customers have commented positively on our new branding. We want to promote confidence in your own skin.*

*Business is booming since our sign has been implemented.*

*As we represent a very reputable doctor and surgeon we want our image to depict the level of professionalism we provide, and to be advised that our sign is offensive is quite disappointing to our company as we pride ourselves on professional service and conduct.*

*The person depicted in this picture is naked but you cannot see any offensive body part at all, and the pose does not promote any sexual themes. This is the same pose we have copied from many other medical or cosmetic websites so it is quite common. The area we are in is a medical listed area and we are surrounded by a hospital, Medical Centers, GP's and dental services. Across the road is a sexual health clinic. Any foot traffic in this area is mainly adults or those driving past.*

*As our business name depicts we are a cosmetic surgery, we help people enhance their bodies to provide confidence and positive self image. This sign and the image and text on it depict that message.*

*This sign is not illuminated and can only be viewed during working hours.*

*As can be seen from all of the above points, our sign in no way contravenes any of the relevant sections of this act. There is no explicit or frontal nudity portrayed in our signage, nor is it in any way discriminatory to any sector of our community.*

*This complaint is a total waste of ours and the department's time and should be treated as nothing more than a malicious and spurious 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 concerns that the advertisement implies women should look like the woman portrayed or else have surgery in order to look like her, and that it features inappropriate nudity in a sensual manner.

The Board reviewed 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."

The Board noted the complainant's concerns that the advertisement implies all women should look like the woman shown in the advertisement. The Board noted that the text in the advertisement describes the treatments available and considered that the surgical/beauty treatments are presented in a way which informs the community of the services on offer but does not suggest that all women should undertake these treatments.

The Board determined that, in this instance, the advertisement did not depict any material that discriminated against or vilified any person or section of society and did not breach Section 2.1 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone."

The Board noted that the advertisement features an image of a naked woman with her hand between her legs.

The Board considered that it is reasonable to expect a provider of surgical/beauty treatments to show the potential results of those treatments in order to promote their business. The Board noted that it has previously considered similar images for similar services (385/09, 276/10) and that in those instances the complaints were dismissed.

In this instance however the Board considered that the image of the woman with her hand between her legs makes it appear as though she is touching herself intimately rather than covering herself, and considered that this made the image sexualised.

The Board considered that this sexualised image did not treat sex, sexuality and nudity with sensitivity to the relevant audience and did breach Section 2.3 of the Code.

The Board then considered whether the advertisement was in breach of 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 complainant's concerns about the message regarding body image this advertisement gives. The Board considered that the woman in the advertisement appears to

be fit and healthy and noted there was no suggestion in the advertisement that all women should look like this.

Based on the above, the Board determined that the advertisement did not depict material contrary to prevailing community standards on health and safety and did not breach Section 2.6 of the Code.

Finding that the advertisement breached Section 2.3 of the Code, the Board upheld the complaint.

### **ADVERTISER RESPONSE TO DETERMINATION**

We can modify our billboard to cover the area which is deemed unsatisfactory. We will put a non removable image, saying Book NOW, or along those lines that can cover the area. We've contacted our sign designer and maker to do this.