



Case Report

1	Case Number	0199/10
2	Advertiser	Meriton Apartments Pty Ltd
3	Product	Real Estate
4	Type of Advertisement / media	Billboard
5	Date of Determination	26/05/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

2.3 - Sex/sexuality/nudity Treat with sensitivity to relevant audience

DESCRIPTION OF THE ADVERTISEMENT

Image of a bikini clad woman with wet hair wearing high heels reclining seductively against an image of the proposed building. Caption: "Infinity - Brisbane's tallest residential tower".

THE COMPLAINT

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

There are two key reasons why Legal Aid Queensland (LAQ) objects to the advertisement: 1. There is no relationship between the woman photographed and the product being advertised; and 2. The advertisement is inappropriate for the location and the advertiser has not considered the possible sensitivities of its audiences.

1. LAQ believes the advertisement breaches section 2.1 of the AANA Code of Ethics and we refer to the Advertising Standards Bureau's decision in case 91/10 to support this assertion. The use of a woman in a sexualised position wearing a revealing string bikini and towering stilettos has no relevance to the apartments being marketed by Meriton and it is clear that the woman is featured because "sex sells". As the Bureau found in the 91/10 case decision "the woman is depicted purely to be looked at" and in that context the image objectifies and discriminates against women. The Infinity building is being constructed in Herschel Street Brisbane directly opposite Legal Aid Queensland's headquarters and in the heart of Brisbane's legal precinct. The image used to market these apartments would be more appropriate to advertise apartments on Cavill Avenue on the Gold Coast or Hastings Street in Noosa locations synonymous with a glitzy beachside lifestyle. The use of sex and nudity is not required to market inner city property.

2. LAQ believes the advertisement also breaches section 2.3 of the Code as it is inappropriate for its location and the advertiser has not adequately considered the sensitivities of the potential audiences. Unlike broadcast and print advertising outdoor advertising has a captive audience; you cannot switch it off or turn the page if you are offended or simply don't want to look at the image any longer. Many LAQ staff at 44 Herschel Street have offices or workstations that look directly on to the advertisement and these staff have expressed their concerns to senior management about the situation.

As mentioned above the Infinity development is in the heart of Brisbane's legal precinct close to the new Supreme and District Court complex police headquarters the magistrates courts and many law firms. The advertisement has not adequately taken this location into consideration and in particular has not considered the sensitivities of the advertisement's potential audiences. Each day LAQ helps women and children who have suffered sexual abuse and violence who may be particularly sensitive to such a sexualised image. LAQ also provides services to women and men from a range of cultural and religious backgrounds who may find the image offensive and inappropriate. The community and our clients rightly have an expectation that LAQ is able to provide its services in a supportive environment free from sexualised imagery.

In addition to the billboard being in breach of section 2.3 of the code we also believe it contradicts the AANA The Communications Council and OMA's Outdoor Advertising Advisory Paper and Checklist. Point three under the checklist states that advertisers should: "Check content [graphic and text] within the context of intended outdoor location(s) giving consideration to potential audiences and possible sensitivities."

The 'tallest residential building in Brisbane' has nothing to do even remotely with a bikini clad anorexic girl especially when the advertisement is as large as a billboard. She is posing rather suggestively (half lying down head back back arched) and I think it sends a ridiculously sexist message to society. I would be even more offended if my child had viewed this type of advertising.

THE ADVERTISER'S RESPONSE

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

We refer to your letter dated 29 April 2010 in which you have requested Meriton to respond to the complaint made by Legal Aid Queensland regarding Meriton's advertising of its development site in Brisbane.

Please note that Meriton Apartments Pty Limited is not a member of the Australian Association of National Advertisers ("AANA"), nor is it an advertising company. It is primarily a landowner and developer, and is currently promoting its newest development in Brisbane. The advertising complained of is located within our property and we did not engage any advertising agency, media buyer or other intermediary with respect to the image or words installed on our hoarding.

Accordingly, given that the AANA is a self regulated industry association, which seeks to enforce voluntary codes, and that Meriton is not a member, we are not sure of the basis upon which you require Meriton to respond to the complaint. It is not our intention to be disrespectful to the Board; however we do not believe that the Board has any jurisdiction over Meriton and accordingly we are not obliged to respond nor does the Board have power

to make any findings against Meriton. We are prepared to revisit our position if you could point us to any legislation, act or regulation whereby, contrary to our investigation, the AANA does in fact have jurisdiction over Meriton.

In any event even if the AANA did have such jurisdiction, we do not believe that Meriton has in any way breached any code of conduct relating to its promotion of its development. Legal Aid previously wrote to us directly complaining and we responded on 1 April 2010.

Enclosed for your records is a copy of our response which sets out Meriton's position. In particular we draw to your attention the following extract from our letter:

"We have reviewed as far as possible a range of recent decisions of the Advertising Standards Board and note that there is no prohibition on images of women in bikinis in advertising. The fact is that we are trying to promote the "resort-style" facilities on offering our development, and the image chosen is used in order to create this feel. It does not in our view contravene either clause 2.3 or 2.6 of the Code.

We do not agree with your statement that "the image you have used on the billboard objectifies women and contributes to a culture that views women as sexual objects " and the inferences that it is somehow linked to sexual abuse of women and violence at the hands of men. Sexual abuse and violence by men is caused by men. Men who do not obey the law. And men who do not respect women regardless of how they may be dressed. To suggest that such behaviour is caused by images in our billboard is with respect simplistic and misconceived.

With respect, your assertion that the depiction of a woman in a bikini is in some way linked to violence against women is not too far from the truly offensive views espoused not so long ago by Sheik Hilaly in Sydney, when he spoke of women attracting violence against themselves due to their mode of dress. We are sure, dealing as you do with the very real victims of very serious crimes that you did not intend to trivialise matters thus.

We have treated your complaint very seriously and we hope that this is reflected in our response to you. Unfortunately we simply do not agree with your assertions.

That being said, the billboard is clearly a temporary structure and it will be removed within a few months as the construction progresses."

Also enclosed are copies of 2 previous determinations by the Advertising Standards Bureau ("ASB"). We note that the facts in complaint no 87/06 are similar to the present complaint and that the ASB dismissed that complaint.

In regards to complaint no: 160103 , where the ABS dismissed the complaint, there is a similarity to the present complaint in that as here, there was only 1 complaint made against an advertisement viewed by millions of vehicles. We have not received any other complaints regarding our promotion other than this complainant.

We hope that the above satisfactorily responds to your letter and if you have any further queries please feel free to contact the writer.

THE DETERMINATION

The Advertising Standards Board ('the Board') was required to determine whether the material before it was in breach of the AANA Code of Ethics ('the Code')

The Board noted the complainant's concerns about the location and medium on which the advertisement appears (a billboard) and that the image of a scantily clad woman is not relevant to the product.

The Board considered whether the advertisement was consistent with section 2.3 of the Code. Section 2.3 requires that advertisements 'shall treat sex, sexuality, and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone.'

The Board viewed the advertisement and noted the advertiser response.

The Board noted that the prominently placed advertisement depicted a bikini clad woman reclining seductively against the image of the proposed development for Meriton Apartments, suggestive of reclining by the pool. The Board also noted that there is no prohibition on including images of women in bikinis in advertising and considered that in this case no nudity is depicted. The Board noted that the billboard is a temporary structure that will be removed as the 'construction progresses' and considered the depiction of the woman is to glamorise resort-style living in the city. The Board considered the advertisement is suggestive of reclining in the sun by a pool, and that the image is only mildly sexualised, not inappropriate and determined the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and product and that it did not breach section 2.3 of the Code.

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