



Case Report

1	Case Number	0199/16
2	Advertiser	Wet Dreams Aquatics
3	Product	Retail
4	Type of Advertisement / media	Outdoor
5	Date of Determination	11/05/2016
6	DETERMINATION	Upheld - Not Modified or Discontinued

ISSUES RAISED

- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

The advertisement is a large mural painted across the front of the business, Wet Dreams Aquatics. The mural contains sea creatures including a mermaid. The mermaid has no top on and has stars painted on her breasts to cover her nipples. Just above the mermaid's head are the words 'wet dreams.'

THE COMPLAINT

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

The use of an image to create a sexual connotation in an exploitative and degrading manner. The image is very sexual and playing on their "Wet dreams" name - the breasts are very large and the stars unnecessarily sexualise the image. The image is now directly next to a dance school entrance. Parents particularly are unable to keep this type of imagery away from their children due to location. The breasts are meaningless in their advertising and the mermaid could have a top on still achieve the same advertising result without causing issue to members of the community. The image is degrading to women and now located next to a dance school catering for young girls exacerbates this issue.

THE ADVERTISER'S RESPONSE

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

The advertisement is a mural on the front side of a building which spans three shops and includes the following scenes which merge into each other:

- 1. garden scene;*
- 2. underwater scene; and*
- 3. animal scene.*

The mural includes a variety of real and mythical characters, most of which are large (i.e. from the height of a child to the height of an adult and larger) and are associated with the type of products sold by the business (e.g. fish and aquatics products, garden products and animal products).

A caricature mermaid is included in the underwater scene. The whole of the mermaid is approximately the size of a sliding door. The mermaid's torso is shown with stars over her chest.

The image has been displayed on the building for approximately 2 years.

Attached is a picture of the image. The dance studio is the immediate neighbour, a small part of which can be seen to the left of the image.

AANA Code of Ethics

Section 2

2.1 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 ... gender...

The advertising image must be considered in the context of the entire scene across the three parts of the shop building for Wet Dreams Aquatics. The image is included in a "seaworld" scene, which merges with an animal scene and garden scene. Other creatures are included in the scenes including a gnome, dragon, various fish, sea-horses, a dinosaur and various farm animals.

Whilst the mermaid is the only identifiable woman in the scenes, the image does not discriminate against the mermaid or women generally. The mermaid is not depicted as excluded from the other creatures, let alone on the basis of her gender. The scene depicts the mermaid as joining in the sense of fun and games of the other characters, showing that life under the sea and with other animals is a joyful experience, as would be owning an aquarium (such as an aquarium which could be purchased from the business).

The scenes do not vilify women on the basis that the mermaid is not represented as being of

little worth nor is she being abused, threatened or berated. The mermaid wears a crown which indicates she is a ruler and holds a position of authority in relation to the other creatures.

2.2 Advertising or marketing should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

The advertising does not employ sexual appeal which is exploitative or degrading of women. The mermaid is not presented merely to attract attention to her chest as she is incorporated into a scene which brings to life and reminds audiences of friendly mythical characters from childhood (eg the dragon, the gnome and the dinosaur) which are consistent with the products sold in the business. The colours and size of other characters are also designed to attract the eye within the context of the whole scene. For example, the business sells all things necessary or desirable to create a mini seaworld in which a mermaid and fish may happily live.

The mermaid is not depicted as an object to be looked upon. She appears to interact with the blue and yellow fish, particularly, and enjoy the fun of life under the sea. Whilst her chest is largely bare, with the exception of the stars to appropriately hide her nipples, she is depicted as natural in her setting underwater.

The image of the mermaid's torso is not sexualised as:

- (a) she is not painted in a lewd position or depicting lewd behaviour;*
- (b) there is no indication that she is considering undertaking any sexual acts from her current position;*
- (c) she is not depicted in a submissive or threatened position (on the contrary, her crown shows her as having a position of authority);*
- (d) her facial expression is content and not embarrassed;*
- (e) there are no other characters that appear to see her as a sexual object;*
- (f) she fits with the style of the other characters in the scenes;*
- (g) she is shown in a humorous and light-hearted manner with happy and confident characters; and*
- (h) the other characters are not staring at her or ogling her.*

Most importantly, she is depicted in a scene which closely relates to the products advertised and sold in the business.

The mermaid is displayed outdoors and may be viewed from the Warrego Highway which can be busy. However, being undercover and not displayed at the top of the building with the seahorses, it is difficult to see her when cars are parked in the car parks. She is positioned by the door of the shop so, given general human habits, it is more likely that cars will park in front her than at the other end of the building, which blocks her from the view of the highway.

The scene does not focus on the mermaid's chest and merely places her as one character amongst many. The scene does not draw particular attention to them through the other characters, text, associated images or sexual acts.

The only text associated with the advertising is the name of the business, Wet Dreams Aquatics or Wet Dreams. Whilst this text may be identifiable to adults as a sexual reference, in the context of the business and the advertising on the building, it is used to refer to dreams involving fish and aquatic scenes. The reference to "wet dreams" is mild and obscure and should not be identifiable as a sexual reference to children.

2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

The advertising scene does not depict violence or violent acts.

2.4 Advertising or Marketing communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

The advertising does not refer to sex nor does it sexualise the mermaid (see above).

The image is treated sensitively to the relevant audience on the basis that stars have been placed over her nipples and she does not remain nude. The stars do not sexualise the image and merely serve the function of hiding her nipples.

The advertising is sensitive for the relevant audience as mermaids are traditionally depicted as topless and the mermaid's chest is not the focus of the image but is a part of her as a whole. Her whole body is shown, not only her upper torso and she is portrayed as only one character in the scene. She is painted in a street-art style and her exaggerated features fit within that concept which uses bright colours and imperfect proportions.

The mermaid and associated characters portray a bright happy scene with lots of details to catch the eyes of the relevant audience.

2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

As discussed above, the only language associated with the advertising is the name of the business, Wet Dreams Aquatics or Wet Dreams. Whilst this language may be identifiable to adults as a sexual reference, in the context of the business and the advertising on the building, it is used to refer dreams involving fish and aquatic scenes. The reference to "wet dreams" as a sexual reference is mild and obscure and should not be identifiable as a sexual reference to children.

On 8 April 2016, a Facebook page, Toowoomba's Bad Parks & Driveways, posted a complaint about the name of the business (at first misidentifying the type of business as an adult store). There was overwhelming support for the business in that the commentators were not offended by the name or the text and had simple explanations of the name for children if the meaning of a wet dream was raised.

Further, within this post, the administrator of the page posted an image of the mermaid and commented, "shame". The image of the mermaid attracted very few comments (indicating that lack of offence at the image) other than to comment on the girl who was placed in the picture with the mermaid.

The language used is not inappropriate in the circumstances as:

a. the language used is the name of the business; and

b. the context of the language may be innocently interpreted as linking to the products sold by the business, ie fish and aquarium products.

2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

The advertising does not depict or indicate any unsafe or unhealthy behaviour.

AANA Code for advertising & Marketing Communications to Children

2.4 Sexualisation

Advertising or Marketing Communication to Children:

(a) must not employ sexual appeal;

(b) must not include sexual imagery in contravention of Prevailing Community Standards; and

(c) must not state or imply that Children are sexual beings and that ownership or enjoyment of a Product will enhance their sexuality.

The relevant audience for the advertising includes all ages, genders, ethnicities, nationalities, sexual preference, religion, disability, mental illness and political belief. The location of the business on the Warrego Highway and the nature of the neighbouring business as a dance school (not only girls) from the age of approximately 3-4 to 15-16 means that the advertising is likely to be seen by children.

Attached is a letter of support from the owner of the dance studio and "Beauty Spot Day Spa", another tenant in the building. These letters indicate that the owners of those businesses, as well as their customers/clients, are not offended by the image nor do they object to it.

The scene and the image of the mermaid do not employ sexual appeal or sexual imagery to promote the business to children. As discussed above, the image is not sexual in nature but is a representation of a mermaid in a particular caricatured style of art.

The scene does not include children so 2.4(c) does not apply.

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 has used a sexualised image of a mermaid, and that the image is not appropriate for viewing by children.

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

The Board considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: “Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.”

The Board noted that this advertisement is a painted mural along the front wall of Wet Dreams Aquatics, and features an image of a mermaid, amongst other sea creatures and foliage.

The Board considered that it is reasonable for the advertiser of the business to use an image of a mermaid to advertise their product given it is an aquatic business.

The Board noted that generally mermaids are presented with some form of top on (bikini top or shells) or with hair covering the breasts and considered that in this case the advertiser had chosen to present the mermaid as a character with large breasts and small stars covering the nipples.

The Board did note that the mermaid is a cartoon image and that although her breasts are on full display, the mermaid is not depicted in a manner that would be seen to be exploitative or degrading to women.

The Board considered that the advertisement did not employ sexual appeal in a manner which is exploitative and degrading to any individual or group of people.

The Board determined that the advertisement did not breach Section 2.2 of the Code.

The Board then 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 the complainant’s concern that the mural is next to a dance studio.

The Board noted that the painted mermaid and mural runs along the front of the business and that this meant that it was able to be viewed by a broad audience which would include children. The Board considered that the business and the next door dance studio would both be visited by children.

The Board noted that the image of the mermaid is a cartoon and considered it therefore likely to attract the attention of children. The Board considered that the mermaid bares a strong resemblance to Ariel the Disney character and that this is likely to create associations for

children, although the Board noted that Ariel wears sea shells to cover her breasts. The image of the mermaid in this advertisement has large breasts and small stars covering the nipples which the Board considered an inappropriate level of nudity for an image likely to be viewed by children.

The Board noted that the mural has the words 'wet dreams' painted alongside the mermaid's head and the word 'wet' is comprised of white liquid dripping from the words. The Board considered that the term 'wet dreams' is a very specific sexual concept and although the Board was not able to comment on the name of the business, it considered that the advertiser had gone out of its way to paint the words 'wet dreams' in both a sexually suggestive manner, and next to the mermaid and that this, intentionally or not, gave the overall image a strongly suggestive sexualised context. The Board acknowledged that whilst younger children may not understand the term 'wet dreams' this term may still be considered offensive by adults in this context

The Board considered that the image did include overtly sexualised images and determined the advertisement did not treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.

The Board determined that the advertisement did breach Section 2.4 of the Code.

Finding that the advertisement did breach Section 2.4 of the Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advertiser has not provided a response to the Board's determination. The ASB will continue to work with the advertiser, and the relevant authorities, with regards to compliance.