



Case Report

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| 1 | Case Number | 0217/15 |
| 2 | Advertiser | The Body Shop |
| 3 | Product | Toiletries |
| 4 | Type of Advertisement / media | Internet - Social |
| 5 | Date of Determination | 10/06/2015 |
| 6 | DETERMINATION | Dismissed |

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - men
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

A naked male torso holding a large hemp shaped soap leaf in front of his genital area.

THE COMPLAINT

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

Suggestive pictures being borderline pornography are not ok in public and I am disappointed that this has been allowed.

It shows a naked man only barely hiding his privates. I've heard this ad is also shown in-store and I don't think it should be out in public or openly online where younger teens or children would see it.

The poster contains a naked man who's groin area is just covered by the soap and some shading. It's soft porn on the front of their shop and other media outlets. I personally don't want my children seeing this just by watching me browse through Facebook when an ad of it pops up. It us adult material to be viewed by adults only if they choose.

THE ADVERTISER'S RESPONSE

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

In May/June 2015, The Body Shop Australia activated a global campaign online and in-store to promote our iconic hemp bodycare range. Hemp has long-proven moisturising and healing properties for the skin and body and has been a longstanding, effective hero ingredient in our range.

A poster was displayed in all store windows, with complimentary imagery used on our website and social media channels. The image, of a man's upper torso and arms holding a large hemp soap on a rope, was featured with the tagline 'Get Your Hands on the Good Stuff; Hemp Soap on a Rope'.

Our core business focuses on bath and body products, making it relevant to feature these products (tastefully) in situ (i.e. in a bath/shower setting).

As an aside, this image is consistent with our ongoing Hemp campaign imagery used over the past 2 decades around the world. Furthermore, it is quite similar to the image used in our 'Wake up with a Big One' campaign last year, which also received similar complaints that were subsequently dismissed by your organisation.

Whilst the model is featured shirtless, and contrary to some of the complaints lodged, absolutely no evident genitalia or public hair is shown. The soap, one of our hero products from the hemp range, fully covers his groin area and no more nudity than what one might see at the beach is on view (i.e. a naked torso).

Whilst the campaign has received a fair number of consumer complaints from the organisation Collective Shout and other conservative consumers, it has received an overwhelmingly positive response from even more consumers online, in social media, in store and through our Customer Service Department. The negative attention has been far outweighed by the positive response to our brand and has reaffirmed to consumers what we stand for: irreverent, tongue in cheek humour without exploiting or degrading any individual or group. Whilst The Body Shop has never been boring, we have a longstanding values commitment to respecting and celebrating people from all walks of life, the environment and animals. We are adamantly opposed to sexual exploitation of any kind and have absolutely not sought to exploit anyone with this campaign.

Our social media response to any complaints remains consistent:

Our communication has always been a little different. That's our personality as a brand and we're sure you've noticed this through many of our communication campaigns.

We stand strongly by our values which are at the heart of everything that we do. We have been a strong force for positive social and environmental change both locally and globally through our campaigns. You may remember Stop Sex Trafficking of Children and Young People (2009 – 2011), where we collected 7,044,278 petition signatures with 225,328 of them in Australia alone to make it one of the biggest ever petitions tabled in our country's parliament to date.

When our Hemp range was launched in 1998, it did cause some controversy in the press. However, the product works so well and our customers supported it so much that our Hemp Hand Protector still remains one of our best-selling products all around the world! Our latest Hemp campaign is designed to be tongue-in-cheek and irreverent, which we believe shows off our brand's bold personality perfectly.

Australian radio station NOVA conducted a listener survey in response to the negative sentiment directed toward our hemp campaign:

<http://www.nova969.com.au/best-web/racy-ad-aussie-brand-under-fire-heres-why>

The results are indicative of widespread consumer sentiment brought to our attention: (61% indication "there's nothing wrong with it.")

As a values-rich bath and bodycare brand that has always communicated in a bold but non-exploitative manner, our imagery in this campaign is relevant, in context and absolutely no more exploitative than any swimwear, underwear or bath and bodycare advertising you may expect to see on the street. No paid media was used to promote this range. Whilst the model used is clearly physically fit, he is absolutely covered in all the right places. As an aside, I do wonder whether we would have received as much negative attention had the model been less physically fit, as he clearly draws attention on that basis alone.

We have received hundreds of customer responses in support of this campaign, all in the same vein:

Have any of you been to the beach recently?

This is a bit of fun but surely not inappropriate.

Any claims that this campaign fosters perversion or sexual abuse is ridiculous.

We stand by our communication as being a bit fun but surely within the boundaries of advertising ethics. Whilst I will be overseas on business until June 09, I am available via email should you have any further questions related to this case.

I thank you in advance for your careful consideration of our defence and hope to achieve a similar outcome as we did last year in relation to similar complaints.

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 complainants' concerns that the advertisement features an image of a male torso that is inappropriate for viewing by a broad audience that includes children and that the image of the man is degrading, offensive and using his body in this manner is inappropriate. The Board noted further concerns that the use of a hemp leaf in the advertisement is encouraging drug use.

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

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

The Board noted this facebook advertisement features the naked torso of a man. His genitals are covered by a large hemp shaped leaf which is the advertised product "soap-on a-rope."

The text above the image reads: "Get your hands on the good stuff."

The Board noted that it is not unreasonable for an advertiser to show a fit and healthy looking model with an attractive torso in order to highlight the product that they are trying to sell. The Board noted that the model is not posed in an overtly sexualised manner and his genitals are fully covered by the soap product he is holding.

The Board acknowledged that some members of the community would prefer that men were

not used in a manner which utilises their gender to promote a product but considered in this instance the model is promoting a product that is directly related to showering and nakedness ie: a soap and that the portrayal of his body in the advertisement does not discriminate against or vilify a person or section of the community on account of gender.

The Board considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of their gender.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board then 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 in order to be in breach this section of the Code the image would need to use sexual appeal in a manner that is both exploitative and degrading.

The Board noted that it is reasonable to expect the advertiser to show a model with an attractive torso in order to highlight the product that they are trying to sell. The Board noted that the model is not posed in an overtly sexualised manner and his genitals are fully covered by the soap product he is modelling.

The Board noted that the campaign features an image of a male body which would appeal to the target audience of adult men and women who would likely purchase product from the store. The Board considered that there was a clear connection with the product in the image and the availability of a broad range of hemp products in store.

The Board considered the use of the slogan "get your hands on the good stuff". The Board agreed that there is a possible suggestion that the "good stuff" referred to in the image is the man's body and that this could be considered objectifying of the man. The Board considered however that this reference is mildly sexualized and is a positive association to the man's body rather than a degrading reference.

The Board noted that the use of this phrase is intended to be lighthearted and clever and as a slogan over the existing image does not amount to an overall tone that is degrading to men.

The Board considered that showing a naked male torso in this manner was not degrading to the man and was not using sexual appeal in a manner that is both exploitative and degrading and 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 that it had previously dismissed a similar advertisement for the same advertiser that featured a supersize bottle of shower gel tucked into the towel around a man's waist and the wording "wake up with a big one." (0103/14). In that case the Board noted that: "whilst the advertisement does employ sexual innuendo in the Board's view it is unlikely that young children would understand the reference. The Board noted that the advertisement features a large bottle of shower gel and considered that a reasonable interpretation is that you should wake up with a shower and using a large bottle of shower gel can be part of that morning ritual."

The Board noted that the current advertisement is displayed on the internet via the advertiser's facebook page and that the audience for this particular facebook page would be more likely to include adult women and men. The Board therefore considered the relevant audience of this advertisement is less broad, than the similarly considered image in the shop window (0214/15) and would not include children.

Consistent with its decision in case ref: 0103/14, in the current matter, the Board noted the connection between the slogan and the image could reasonably be interpreted as getting your

hands on the good stuff meaning to purchase the soap product because of its superior quality as a body washing product. The Board noted that limited audience of the facebook page advertisement, the relevance to the product, the mild level of sexual suggestion in the advertisement and the fact that the nudity depicted no genitalia meant that the advertisement treated nudity with sensitivity to the relevant facebook community audience.

The Board noted that the soap is being held by the man in front of his genitals and considered that the depiction of a naked man holding soap is not inappropriate in the context of an advertisement for a bath or shower product. The Board noted that the man's private areas were completely covered up and considered that the level of nudity was mild and not inappropriate for an image on facebook where a limited audience could view it.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and 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 complainants concern that the inclusion of an image of a hemp leaf in connection with the slogan "get your hands on the good stuff" is encouraging drug use. The Board noted that the hemp range of products are recognized broadly by the community as being an ingredient in toiletries sold at the Body Shop. The Board noted that the image of the leaf is clearly attached to the rope as part of the soap product and it is evident that it is not part of the plant itself. The Board agreed that most members of the community would understand the association between the product and the use of hemp as an ingredient in the making of the product.

The Board noted that there was no evidence of drug use in the image and no drug paraphernalia surrounding the main image or text. The Board considered that the use of the leaf was to highlight the ingredient within the product and to shield the man's genitals. The Board considered that as there was no depiction of inappropriate drug use or reference to encouraging drug use, the advertisement was not found to be in breach of section 2.6 of the Code. Finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaints.