



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0255/18
2	Advertiser	Century 21 Medowie
3	Product	Real Estate
4	Type of Advertisement / media	Promo Material
5	Date of Determination	06/06/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

This flyer advertisement features a man holding the band of his pants out and holding a magnifying glass so it appears as though he is looking into his pants. The accompanying text has the heading 'We're extremely proud of our small vacancy rate' with further details about the business.

THE COMPLAINT

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

My young granddaughter got the card out of the letterbox and with all the innocence of a five year old asked "Nanny, what is the man looking at?" A very good question. Obviously it has nothing to do with real estate. Curtis and Blair is an all female Real Estate business based in Medowie. I feel this particular promotion, in a vain attempt at humour, is "sexist", inappropriate and offensive.

It depicts a male with a magnifying glass and open pants and the male is looking through the magnifying glass down his pants.



The heading reads “ We’re extremely proud of our small vacancy rate”

I find the advertisement offensive and if it had depicted a female looking at her breasts or down at her crotch then there would be an up roar and the advertiser would be slammed for such a sexist act, yet they have done this in a media in which impressionable young children will easily see it. My young son asked what they meant with the pamphlet. I had to explain that it is not appropriate and very poor advertising, not to mention offensive. Surely this is obvious even to the simplest of people.

THE ADVERTISER’S RESPONSE

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

We have reviewed the two complaints received under Section 2 of the Advertiser Code of Ethics and provide the following details in support of our belief that we did not breach the Advertiser Code of Ethics.

The advertisement is a DL flyer with an image of a gentleman with a magnifying glass looking down his trousers. This image was readily obtained from Getty Images. We believe this same/similar image has been used by other real estate agents in the past without controversy. Our wording on the flyer is:

*We’re extremely proud of our small vacancy rate
0.03% vacancy rate, that’s 90% less than the Medowie average
Our days on market are 50% lower than our competitors
Awarded Best Property Management – Port Stephens Annual Business Awards
Awarded Agency of the Year – Rate My Agent
100% accountable
100% authentic*

The DL flyer was designed by Brandstrong and printed by WHO Printing and distributed by Australia Post to 3200 households in Medowie along with other marketing material from other local businesses. Delivery was completed 12 May 2018. The target audience are potential tenants and landlords who must be over the age of 18 to sign tenancy or marketing agreements with real estate agencies, not young children.

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 race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.



The advertisement does not discriminate or vilify any person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

*2.2 Advertising or Marketing Communications shall not employ sexual appeal:
(a) where images of Minors, or people who appear to be Minors, are used; or
(b) in a manner which is exploitative or degrading of any individual or group of people.*

The advertisement does not employ sexual appeal and is not targeted at minors. The target audience are potential tenants and landlords over the age of 18.

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

The advertisement does not present or portray violence.

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

The advertisement does not depict sex, sexuality or nudity.

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.

The advertisement does not contain strong or obscene language.

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

The advertisement does not contravene prevailing community standards on health and safety.

2.7 Distinguishable as advertising

As with most of our advertising campaigns this was a one off produced DL flyer which is most likely land fill now. The flyer will not be reproduced and the image will not be utilised in any future campaigns.

THE DETERMINATION



The Ad Standards Community Panel (“Panel”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Panel noted the complainants’ concerns that the advertisement features inappropriate sexual referencing and sexism.

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

The Panel noted that the advertisement was a promotional flyer that was delivered to mail boxes. The advertisement features a man holding the band of his pants out and holding a magnifying glass so it appears as though he is looking into his pants. The accompanying text has the heading 'We're extremely proud of our small vacancy rate' with further details about the business.

The Panel 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 Panel noted the Practice Note to Section 2.1 of the Code which provides the following definitions:

“Discrimination – unfair or less favourable treatment

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule”.

The Panel noted the complainants’ concerns that the advertisement is sexist.

The Panel noted that the accompanying text included the words “small vacancy rate” and considered that the advertisement is a double entendre referring to the small vacancy rate of a real estate agent and in combination with the image of the man looking down his pants this is possibly a reference to penis size. However the Panel considered that the advertisement also included a reference to being “extremely proud” of their small vacancy rate, so this is not a suggestion that the man’s penis size is bad or undesirable.

The Panel considered that the man is not depicted in a manner that is unfair nor in a manner that would be likely to humiliate or incite ridicule of either himself or men in general. The Panel considered that the advertisement was intended to be a humorous double entendre and considered that the advertisement is not a depiction which is discriminatory or vilifying towards either the man in the advertisement or a section of the community.



The Panel determined that the advertisement does not discriminate against or vilify a person or section of the community on account of gender.

The Panel 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 or degrading of any individual or group of people.”

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised. Degrading – lowering in character or quality a person or group of people.

The Panel considered that although there is a sexual suggestion in the advertisement, it is not using sexual appeal to sell the real estate service and therefore Section 2.2 does not apply.

In the Panel’s view, the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people.

The Panel 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 Panel noted the complainant’s concern that the advertisement contained sexual references inappropriate for children to view.

The Panel noted that there is no actual nudity depicted in this advertisement. The Panel considered that children viewing this advertisement would be unlikely to understand the implication of the image and its relation to the accompanying text.

The Panel considered that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience which may include children and did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Code on other grounds the Panel dismissed the complaints.

