



## Case Report

1	Case Number	0300/15
2	Advertiser	WA AIDS Council
3	Product	Health Products
4	Type of Advertisement / media	Print
5	Date of Determination	12/08/2015
6	DETERMINATION	Upheld - Modified or Discontinued

### ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language

### DESCRIPTION OF THE ADVERTISEMENT

The advertisement in question was a one-quarter page print advertisement displayed in the Fremantle Herald Community Newspaper. The advertisement included a graphical image of fireworks and a champagne bottle, with text describing sexual health workshops for men who have sex with men.

### THE COMPLAINT

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

*I was offended by the explicit detail used in the advertisement and believe that sort of terminology and language should not be used in a community newspaper where it is read by all ages.*

*We are concerned to find such explicit, adult, sexual content in a free, community newspaper, delivered to all homes in the inner northern suburbs of Perth.*

*While the advert targets over 18's, this newspaper is read by many children including our own. We are concerned that this type of advertising exposes young children to sexual concepts prematurely. (Note: Many children these days are competent readers from the age of six).*

## THE ADVERTISER'S RESPONSE

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

*In response to the above complaint the WA AIDS Council wishes to address the concerns of the complainant(s) and also Section 2.4 and 2.5 of the AANA Advertiser Code of Ethics.*

*The intention of this advertisement was to encourage participation in workshops that are designed to help gay and homosexually active men with knowledge and information that improves their decision making, so that their risk of acquiring HIV and other sexually transmitted infections is substantially reduced. We have been running these workshops for two decades and they mirror those run in every Australian jurisdiction as well as most similar Western countries.*

*This particular workshop, with other similar workshops around safe sex practices, has been running bi-annually for 20 years and its content has evolved and has been adapted over time. The need to provide these workshops to reduce the incidence of HIV transmission among MSM is greater than ever, with rates of HIV infection rising. The resulting cost to the health system can be significant and education programs such as this one represent an investment in the reduction of transmissions and the subsequent cost to the community.*

*Advertising for the workshops has taken numerous forms over their twenty-year existence. Print advertising has proven to be an effective form of reaching out to men in this category, historically in the lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) community publications, but in recent years in 'mainstream' newspapers. As the LGBTQI community is more widely understood by and integrated into the broader community, their reliance on LGBTQI media has decreased, as has the sense of 'community'. The WA AIDS Council has had to source new media options to reach this at-risk group.*

*Online and social media, while low cost, have not proven as successful in attracting participants to the workshops, and as a result the Council has maintained its presence in community and suburban newspapers as a means of reaching men who are not able to be engaged through traditional gay community connection. Sound though this strategy may be, and it has proven successful in recent years, clearly the information could have been presented in a way that neither generated community offence nor potentially reached an inappropriate audience.*

*The publications concerned understand and remain supportive of the health promotion work the Council does in minimising harm and the manner in which we attract participants to engage with the Council's services.*

*The community newspaper chosen for this advertisement, the Fremantle Herald, has provided complete support for the advertisement in question and the necessary content provided by the workshops it promotes. A letter from the publisher is attached.*

*The artwork used to promote the bi-annual workshops is changed with each session and are typically promoted in the month preceding the course only. While the workshops continue, the advertising does not.*

*The WA AIDS Council is committed to reducing social, legal and policy barriers that prevent access to health information and effective support and prevention services. A decision to limit the advertising options available to the Council would impact on our ability to provide this important information to members of the community most at risk of poor sexual health outcomes.*

*The advertising in question, while sexually suggestive, used medical terms, did not contain nudity, and clearly outlined the intended audience - men who have sex with men, aged 18 and over. The WA AIDS Council asks for the complaints to be dismissed on these grounds.*

*Notwithstanding our position that the advertising did not compromise commonly accepted community standards, it is never our intention to cause shock, outrage or offence. We accept that our advertisement could have been presented in a modified form that would have communicated the important information to its intended audience with a lesser chance of causing discomfort to those for whom it was not directed. As a result, we will in the future give more robust attention to impact on general audiences of any proposed advertising.*

## **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 sexualised language which is graphic and not appropriate for a local paper where children can read it. The Board viewed the advertisement and noted the advertiser’s response.

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 this print advertisement features information about forthcoming sexual health workshops run for ‘18+ guys who are into guys.’ The advertisement includes an opened bottle of champagne and colourful fireworks. The large heading states “Learn the other big bang theory.” Information regarding the forums and contact details are provided also, along with the website address.

The Board noted that the advertisement appeared in the Fremantle Herald and that the forums are run by the WA Aids Council.

The Board noted the complainants concern that the advertisement was situated in the paper in a place where children could read it and that the advertisement contains sexualised language. The Board noted that the advertisement was placed in The Herald arts section next to an advertisement for a concert of the Fremantle Chamber Orchestra and underneath articles on the circus and the South Side Symphony Orchestra. The board noted that the advertisement used terms such as “better head and orgasms” and “A\*\* Class – from maintaining a healthy rectum to douching, anal sex, safe sex and more.”

The Board noted that the bright colours and fireworks would likely draw the attention of children to the advertisement and noted that the story immediately above the advertisement was for the Fremantle Circus school and includes a photo of a 15 year old girl in the centre. The Board acknowledged the importance of the work of the Aids Council and the message and services they are continually promoting regarding safe sex and safe sexual practices particularly in this instance for homosexual men. The Board noted the advertiser’s response that mainstream newspapers prove to be the most effective way for them to reach their target audience.

The Board considered however that the use of terms such as “better head and orgasms” and “anal sex, safe sex and more, “ were specific and strong references to sex and sexual activity and that these topics so specifically are not appropriate for a young audience. The Board considered that although it is not likely that many children would read the paper, the placement next to an article on the circus school and associated arts are topics that may have appeal to families and children.

Overall the Board considered that the advertisement did not treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and did breach Section 2.4 of the Code. The Board then considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “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 Board noted that the language used is of a technical or medical nature and does generally refer to sexual acts with appropriate terminology for the activity. The Board considered that in the context of an advertisement for forums on safe sexual behaviour the language is relevant, however in the context of a newspaper advertisement the Board considered that the language was strongly sexualised and not appropriate for the relevant audience which could include children and people who would not be likely to expect such strong sexual references. The Board determined that the advertisement did breach Section 2.5 of the Code. Finding that the advertisement did breach section 2.4 and 2.5 of the Code, the Board upheld the complaints.

## **THE ADVERTISER'S RESPONSE TO DETERMINATION**

The WA AIDS Council accepts that our advertising breached sections 2.4 and 2.5 of the code. The breach was unintentional and we regret any discomfort or offence that this may have caused.

We have discontinued any placement of this or similar advertising in media directed at a general audience. Further, we have reviewed our internal systems and implemented a more robust review process that will ensure that similar breaches will not occur in the future. Thank you for your consideration of the complaint and our response, and we note that the Board acknowledges the importance of the work of the WA AIDS Council.