



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0337/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Pacific Magazines</b>
<b>3</b>	<b>Product</b>	<b>Media</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>22/08/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.4 - Sex/sexuality/nudity S/S/N - nudity
- 2.2 - Objectification Exploitative and degrading - women
- 2.1 - Discrimination or Vilification Gender
- 2.1 - Discrimination or Vilification Lifestyle Choices
- 2.1 - Discrimination or Vilification Religion

### DESCRIPTION OF THE ADVERTISEMENT

We open on a mother and her son waiting by the side of a road. As a cart and horse driven by an elder couple pulls up to pick them up, the boy notices a discarded magazine lying in the grass nearby. He picks it up but his mother quickly takes it from him and hurries him into the cart. She looks at the cover, then quickly hides it in her clothing and joins the others in the cart.

In a series of vignettes, we follow the elder couple as they become increasingly concerned by changes occurring in their village; They notice several women wearing their hair and clothing in a very different and more modern way; They see a beautiful modern macaroon tower rather than a traditional apple pie being placed on a kitchen window sill.

Finally we cut to the elder couple as they catch out a group of women laughing at one who parades about with her leg sticking out of a slit in her full-length dress. The female elder grabs the magazine and throws it into a stream.

SUPER: It starts with a New Idea.

### THE COMPLAINT

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

*The ad shows a conservative Amish woman and her daughter finding a copy of New Idea and copying what they see in it. Initially they bake macaroon cakes and let down their hair but then one cuts her long skirt right to the crotch and exposes her leg 'Angelina Jolie style'. The advertisement is disrespectful of the Amish people. It belittles people of conservative beliefs in an offensive way. I find it extremely objectionable.*

*I am aware that the Amish do not have TV and therefore are unlikely to see the ad. However I believe that it is prejudiced and unfair on a group who cannot and will not defend themselves. I am not Amish but respect their right to live as they do and to make fun of their way of life is unfair and unjustified.*

*I find this ad offensive on the grounds of discrimination of a religion. The Amish people, while not represented in Australian culture, are still entitled to have their belief system respected. This ad pokes fun at people who have chosen a particular way of life to support their religious beliefs.*

## **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 letters dated 31 July 2012, 3 August 2012 and 6 August 2012 enclosing copies of viewer complaints received by the Advertising Standards Bureau in relation to the above advertisement for New Idea, which was produced by New Idea's production agency. In order to ensure that this advertisement did comply with the Code of Ethics, we made sure that the storyboard was reviewed by Anisimoff Legal. We received feedback that while it was acceptable to depict the Amish community, we needed to ensure that the advertisement did not vilify or disrespect the Amish community. We then took great care in developing the advertisement to ensure that this advice was strictly followed (and that the advertisement did not vilify or disrespect the Amish community in any way).*

*We note that the majority of the complainants consider that the advertisement does vilify and disrespect the Amish community on the basis that it depicts certain members of the community engaging in behaviour that may not be overly common in such a community. Several complainants also consider that the advertisement does not treat sex, sexuality and nudity with sensitivity on the basis that one of the women featured in the advertisement reveals part of her leg from beneath her clothing.*

*You have asked us to respond to the issues raised in the complaints for the purposes of submission to the Advertising Standard Bureau ("ASB") which we understand will review the complaint, particularly having regard to Section 2 of the Australian Association of National Advertisers Code of Ethics ("Code Of Ethics").*

*Accordingly, our response is set out below.*

*At the outset, we strongly deny any allegation that the advertisement breaches Section 2 of the Code of Ethics. More specifically, we strongly deny that the advertisement portrays or depicts material in a way which vilifies or disrespects a person or section of the community*

*on account of culture or religion, or that the advertisement is otherwise demeaning towards the Amish community (or any other culture or religion) or women generally.*

*While the advertisement does portray a community living a simple lifestyle (such as an Amish community), there is nothing in the advertisement which suggests that such a way of living is wrong, unreasonable or nonsensical.*

*In addition, while the advertisement also shows members of the community perhaps engaging in novel or slightly uncommon behaviour, there is nothing to suggest that these members of the community were previously unhappy with their way of life (or that their way of life was somehow wrong or ridiculous). A slight change in behaviour does not amount to mockery of a past behaviour (or a suggestion that such past behaviour was wrong or unreasonable).*

*The prohibition found in Section 2.1 of the Code of Ethics contains strong language – advertisements must 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 AANA Practice Note to the Code of Ethics defines “discrimination” to mean unfair or less favourable treatment and “vilification” to mean humiliates, intimidates, incites hatred, contempt or ridicule. There is simply no basis to conclude that the advertisement portrays the Amish community in a pejorative light, let alone incites hatred, contempt or ridicule towards them.*

*The advertisement does not vilify, mock, denigrate or belittle the traditional values of the Amish community, it simply shows how the introduction of something new can sometimes impact a community group and allow for the consideration of a different way of living.*

*Furthermore, there is nothing in the advertisement which suggests that it would be acceptable to vilify, mock, denigrate or belittle the Amish community or religion (or any community or religion for that matter).*

*The advertisement does not suggest that the appearance of the New Idea magazine in the Amish community encourages members of the community to question their faith or consider leaving the community, as is suggested by one complainant. There is also nothing to suggest that the Amish faith or belief system is outdated or that the members of the Amish community are being forced to live in a particular way, as suggested by some of the complainants.*

*The advertisement represents the Amish community and its way of living as accurately as possible and does not exaggerate any particular aspects of the Amish life simply for the purpose of making a more effective promotional statement. We note that the AANA Practice Note to the Code of Ethics provides that “advertisements can suggest stereotypical aspects of an ethnic group with humour provided the overall impression of the advertisement is not a negative impression of people with that ethnicity”. To the extent that members of the Amish community (or other similar cultures or religions) were portrayed in a stereotypical manner, the overall impression of the advertisement was not negative.*

*We note that one complainant suggests that the advertisement is also racist on the basis that the Amish community is traditionally German speaking (and therefore the advertisement is racist towards Germans). With respect, this complaint is without any foundation and can be immediately disregarded. There is nothing in the advertisement to suggest that the community depicted is German. Furthermore, our research also indicates that the first Amish church was founded in Switzerland and that there are Amish communities throughout the world (with more heavy populations in the United States and Canada). Accordingly, while this advertisement does not vilify the Amish community, it is also not racist towards Germans (or any other nationality).*

*We also note that several complainants took the view that this advertisement was offensive to women generally. This is not the case. The women shown in the advertisement are not engaging in behaviour that is particularly lewd, unusual or risqué (even if such behaviour*

*may be more unusual in the Amish community) and therefore it is our view that the advertisement would not be offensive to women generally.*

*Finally, we note that several complainants also considered the scene where one woman revealed her leg from underneath her clothing to be in breach of Section 2.4 of the Code of Ethics (i.e. presumably on the basis that this scene of the advertisement does not treat sex, sexuality and nudity with sensitivity).*

*The woman in this scene is replicating what is now an infamous Angelina Jolie pose from the red carpet at the 2012 Oscar Awards. While the woman in the advertisement does show her leg from beneath her clothing, she does not reveal any of the more intimate parts of her body or her underwear. In addition, there is no suggestion that the woman is striking this pose in order to attract the attention of or tempt the men in the community. She is surrounded by a large circle of women the entire time, making it impossible to see what she is doing without entering into the circle of women.*

*We note that it is not uncommon for advertisements to depict certain cultures or religious groups. We understand that Levi Strauss ran a television advertisement in 2003 which also depicted members of the Amish community (with two Amish women attempting to steal the pants of a man swimming in the river). The ASB received complaints that this advertisement mocked the Christian faith and that the depiction of the man swimming and coming out of the water was inappropriate given the sensual and sexualised nature of his movements (Complaint reference: 153/03). Such complaints were dismissed on the basis that while the advertisement may have offended certain members of the community, the majority of people would find the advertisement to be “an acceptable communication under prevailing community standards”. It is our view that the New Idea advertisement falls within the same category and therefore the complaints should be dismissed.*

*New Idea has a long tradition of celebrating and respecting diversity and tolerance. In the magazine’s 110 year history it has covered a wide variety of stories in a compassionate manner – from discussing post natal depression in the 60s (a taboo subject at the time) to more recently Natalie Cook sharing her same sex marriage celebration exclusively with New Idea. Cadel Evans broke the story of his Ethiopian adoption with us and in the past month, our Editor-in-Chief reported from the food famine crisis in West Africa’s Muslim nation of Niger to help drive donations. We’ve interviewed rising indigenous star Jess Mauboy and next week we’re celebrating an indigenous smoke ceremony marriage in Kakadu. Our readers expect us to tell stories that are entertaining and topical in an appropriate and culturally sensitive way – it’s a key and ongoing pillar of New Idea’s editorial policy, and we have six full time sub editors responsible for supporting that policy.*

*Whilst we do regret any offence suffered by the complainants in this instance, we simply cannot accept that these complaints have any merit or validity whatsoever. Accordingly, we do not consider that the advertisement breaches the Code of Ethics.*

*We trust that the above serves to clarify the concerns raised by the complainants and assists the ASB to make a balanced assessment as to the status of the New Idea advertisement. However, please do not hesitate to contact me if you have any queries or require further information.*

## **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 presents the Amish people in a manner which discriminates against race, religion and way of life, and presents Amish women in a manner which is sexual and inappropriate.

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

The Board first 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, sex, age, sexual preference, religion, disability or political belief.'

The Board noted that the advertisement portrays women from a depiction of an Amish community finding a copy of New Idea magazine and they are then shown to be experimenting with their hair, cooking and clothing in a manner which the elders of the community clearly find unacceptable.

The Board noted the complainant's concerns that the advertisement is racist because "Amish people are known for speaking German" and noted that there is no reference to the German language or race within the advertisement. The Board considered that this interpretation of the advertisement is one which is unlikely to be shared by the broader community and in their view the advertisement does not discriminate against people based on their race or nationality.

The Board noted the complainants' concerns that the advertisement discriminates against Amish people based on their religion and way of life. The Board noted that the Amish community is presented in the advertisement in a manner which reflects their choice of living and way of life and considered that this representation is depicted as different rather than negative. The Board noted some complainants' concerns that the advertisement suggests that the Amish way of life is inferior and that New Idea offers a better alternative and again the Board considered that the suggestion is one of difference rather than of inferiority/superiority.

The Board noted that the elder members of the Amish community are not happy about the younger members reading New Idea and considered that the overriding message of the advertisement is more about generational differences and the fact that the younger generation readily accept and adopt change in comparison to the older generation. The Board noted that there are no records of an Amish community within Australia and considered that even if there were such a community here the advertisement does not present their religion or way of life in a manner which would be considered discriminatory or vilifying.

The Board noted the complainants' concerns that the nature of the Amish way of life means that they would not be aware of the advertisement and how their lifestyle is portrayed. Some members of the Board expressed concern that the Amish have been used in this manner in the advertisement however the majority of the Board considered that the overall tone of the advertisement is gentle and positive and presents a light-hearted take on a depiction of an Amish community which does not discriminate or vilify any section of the community.

Based on the above the Board determined that, in this instance, the advertisement did not depict any material that discriminated against or vilified any person or section of society. The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board considered whether the advertisement complied with Section 2.2 of the Code which 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 one scene we see a young Amish woman using a split in her skirt to show her leg. The Board noted that in this scene the woman is surrounded by a group of women and that the focus is on the change in her clothing to make it fashionable rather than on the exposure of her leg. The Board considered that the women in the advertisement are presented in a manner which is not exploitative and degrading.

The Board determined that the advertisement did not employ sexual appeal in a manner which is 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 one Amish woman exposes her leg up to her upper thigh and considered that this level of nudity was not inappropriate in the context of a woman copying a modern fashion to her friends. The Board noted that only the woman’s leg is shown, and that this exposure is brief and not sexualised.

The Board determined that the advertisement did not contain inappropriate nudity and did treat sex, sexuality and nudity with sensitivity to the relevant audience and that it did not breach Section 2.4 of the Code.

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