



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0358/10</b>
<b>2</b>	<b>Advertiser</b>	<b>Polyester Books</b>
<b>3</b>	<b>Product</b>	<b>Other</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Outdoor</b>
<b>5</b>	<b>Date of Determination</b>	<b>25/08/2010</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheld - Modified or Discontinued</b>

### ISSUES RAISED

- 2.3 - Sex/sexuality/nudity - Treat with sensitivity to relevant audience
- 2.2 - Violence - Other

### DESCRIPTION OF THE ADVERTISEMENT

Cartoon image of two girls. The dark haired girl has her hands behind her back and her mouth is gagged. The lighter haired girl is straddling the dark haired girl's right leg with her crotch resting on the knee. There appears to be some liquid on the knee. The light haired girl has her hands on the knickers of the dark haired girl: she appears to be about to pull them to one side. Both girls are wearing tight blue cropped shirts, purple and black knickers and long white socks. Above them is the word "Polyester" written in white letters within a red bubble.

### THE COMPLAINT

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

*I object to this advertisement because it depicts a scene of imminent rape. Not only that but there is evidence in the image that the vulnerable character has also been violently physically assaulted. The use of this image is very disturbing in that it suggests that A). Rape is ok B). Rape is not a real or a serious issue if the perpetrator and victim are both female in fact it's completely ok C). It's ok to use a image of violence and rape against women (or anyone) to sell a product or advertise a shop (or in fact anything). The image also erodes the acknowledgement that violence among women or queer women is serious and that it occurs. This image is appallingly offensive and I am shocked that the owners of this retail outfit thought it appropriate to use as an advertisement.*

*On top of all this even if the scene was not entirely inappropriate and objectionable for the reasons detailed above the image also vividly depicts vaginal fluid exiting from one of the characters meant to indicate sexual arousal. It is ridiculously inappropriate to have such an advertisement on the street for children to see. This is true in general but even more apt when you consider the sign is at children's eye level.*

*I have had it suggested to me that because this image is potentially legal in a censorship context it is ok to use it anywhere. I want to state that if this is true it does not in any way change alter or negate my complaint.*

## **THE ADVERTISER'S RESPONSE**

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

*The advertisement referred to in the complaint is a standard sandwich board, constructed as a wooden frame with two metal sides on which an identical image is displayed. The sandwich board measures approximately 1 metre in height and 0.6 metres in width.*

*The image depicted on the sandwich board is a manga-style cartoon illustration featuring two girls in a playful pose. The girls are fully clothed but there are sexual overtones in the image.*

*The sandwich board is placed on the footpath directly in front of the entrance to the shop at a distance of approximately 1.5 metres from the doorway.*

*The advertisement complies with Section 2 of the AANA code of ethics. Contrary to the views of the individual lodging the complaint, there is no clear suggestion of violence in the image.*

*There is no evidence that violence has taken place nor is there any indication that violent behaviour is imminent. The complaint also incorrectly asserts that one of the characters is tied up and bruised. In fact, neither of these conditions is visibly evident. The more conventional interpretation of the image would be that it depicts a consensual, playful bondage scene.*

*The sexual nature of the image is appropriate to the streetscape and the eclectic character of the area. Brunswick Street is well known as an alternative, edgy and artistic precinct in Melbourne and the image is in keeping with this aesthetic. The image has been created with a whimsical, light-hearted feel which is appreciated by the vast majority of customers and passers-by, including those accompanied by children. The sexual nature of the image tends to go unnoticed by children.*

*The advertisement in question is in fact the logo of Polyester Books and has been so for approximately 17 years. For this entire period, the sandwich board that is the subject of the complaint has appeared on the footpath in front of the shop. This complaint is the first of its kind received. This fact would indicate that the image has been generally well-received for a very long period of time.*

*We acknowledge the complaint and respect the views of the individual lodging the complaint. However, we believe that these views are simply not representative of the community as a whole.*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the “Code”).

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

The Board noted the complainant’s concerns that the advertisement depicts a scene of violence suggesting imminent rape showing a more dominant and a vulnerable character and also that the image vividly depicts fluid exiting from one of the character’s indicating sexual arousal.

The Board considered whether the advertisement was in breach of section 2.3 of the Code and section 2.2 of the Code. Section 2.3 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone”. Section 2.2 of the Code states: ‘Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised’.

The Board noted the advertiser’s response that the advertisement in question contains an image which is the logo of Polyester Books and has been so for approximately 17 years. The advertisement referred to in the complaint is a standard sandwich board outside the entry to the store.

The Board considered the depiction of the two female characters to be sexual and considered that the manga style did not lessen the impact. The Board noted that one of the girls is gagged and apparently has her hands tied behind her back and that the other girl has a menacing look. The Board considered that whilst the act depicted could be consensual and suggestive of bondage play, the gagging and the fluid secretions made it highly sexualised.

The Board noted the location of the shop and the alternative nature of the street. However the Board considered that the street is an open place and likely to be frequented by families who are not able to avoid this image.

The Board noted that the advertiser is free to use the image as its logo but that incorporating this image into an advertisement which is available to a broad audience means that the concept of ‘relevant audience’ changes. The Board considered that as a logo this image is acceptable, but as an image on a sandwich board on the street, it does not treat sex, sexuality and nudity with sensitivity to the relevant audience and breaches section 2.3 of the Code.

The Board also considered whether the advertisement complied with section 2.2 of the Code which requires that: advertising or marketing communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.’ The Board considered that the image of the woman was suggestive of non consensual sexual behaviour. The Board noted that the image was relevant to the type of product stocked in the store but considered that the level of violence suggested in the image was not justified merely by its relevance to the product. The Board determined that the violence depicted in the

advertisement was not justified in the context of the product advertised and that the advertisement breached section 2.2 of the Code.

Finding that the advertisement breaches section 2.2 and 2.3 of the Code, the Board upheld the complaint.

## **ADVERTISER RESPONSE TO DETERMINATION**

At the time of publication the Advertiser's response is as follows:

'Polyester Books views the decision by the ASB as attempted censorship and an affront to freedom of expression. Hence we refuse to comply with the ruling of the ASB.

In addition, we believe that after 17 years and an estimated one million people viewing the advertisement, this one single complaint has been massively outweighed by positive feedback and favourable public sentiment.

At Polyester we take our cues from the public reaction on the ground, which is overwhelmingly in favour of retaining the advertisement.'

September 2010: A "censored by Yarra City Council" sticker was placed over the sign, but despite the alteration, the council rejected a permit to renew the street space for the A-frame sign on Brunswick Street.

June 2011: Matter brought before Yarra City Council again - Council determined that the local law permit should be issued for the sign in its original condition.