



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0373/16</b>
<b>2</b>	<b>Advertiser</b>	<b>Hypoxi Head Office</b>
<b>3</b>	<b>Product</b>	<b>Slimming</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Radio</b>
<b>5</b>	<b>Date of Determination</b>	<b>14/09/2016</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

This radio advertisement is promoting Hypoxi's products and services, which assist with the reduction of bodymass and toning of the body. In the Advertisement, a female tells the story of her journey using Hypoxi in order to assist in losing dress sizes ahead of being a bridesmaid at a wedding.

At the end of the Advertisement it says 'to look and feel your most awesome self...' [got to [hypoxi.com.au](http://hypoxi.com.au)].

## THE COMPLAINT

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

*Objection to the relationship made between body shape/weight and self-confidence, with the assertion that the weight loss services will result in an increase to self-confidence.*

## THE ADVERTISER'S RESPONSE

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

*Advertisement Complaint Reference: 0373/16 – Hypoxi/96FM (Australian Radio Network)*

*We refer to your letter concerning the investigation by the Advertising Standards Bureau (ASB) in relation to one complaint received relating to the recent advertisement by Hypoxi on 96FM (the Advertisement).*

#### *The Advertisement*

*The Advertisement is a fun, light hearted promotion for Hypoxi's products and services, which assist with the reduction of bodymass and toning of the body. In the Advertisement, a female tells the story of her journey using Hypoxi in order to assist in losing dress sizes ahead of being a bridesmaid at a wedding.*

*At the end of the Advertisement it says 'to look and feel your most awesome self...' [got to hypoxi.com.au].*

*Whilst we acknowledge this ad is fun and light-hearted, ARN does not think that the Advertisement is in breach of the AANA Advertiser Code of Ethics or other applicable regulation. The Advertisement appropriately and positively discusses the achievement of weight loss goals, but does not in any way indicate that the female involved is not already 'awesome' (to quote the ad) and confident in herself. The Advertisement does not encourage anything unsafe or unhealthy.*

#### *AANA Advertiser Code of Ethics*

*The complainant raised concerns regarding compliance with Code 2.6 (Health and Safety).*

*Sections 2.6 provides that:*

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

*ARN acknowledges that loss of dress sizes is discussed in the Advertisement, however considering the nature of the product, this is key to its promotion. Hypoxi is legally permitted to advertise its services in Australia.*

*We feel strongly that the Advertisement was crafted appropriately and did not in any way depict the female featured as less attractive or confident as a result of wanting to 'lose two dress sizes'. She was positive, happy and had a goal in mind which she felt was assisted by Hypoxi. She was delighted with the results and movement towards her goal, but this is no way inferred that she would have been a failure if she hadn't had those results or that she in any way 'needed' to lose weight. The Advertisement made no mention of dieting or any other procedures or processes associated with weight loss.*

*For these reasons, ARN strongly believes that the Advertisement does not breach clause 2.6 of the Code.*

*While ARN does not consider that the Advertisement raises issues under section 2 of the Code, ARN does value feedback on the Advertisement and intends to monitor any similar complaints received in the future to ensure that these advertisements are not offensive to a significant proportion of the community.*

*We would welcome the opportunity to provide any further clarification that the ASB may require in relation to this matter.*

## **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 complainant’s concerns that the advertisement is objectionable as it links body shape and weight with self-confidence.

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

The Board 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 that this radio advertisement features a female voiceover describing how Hypoxi is helping her to lose two dress sizes in preparation of her being a bridesmaid.

The Board noted the advertiser’s response that given the nature of their product it is appropriate to describe its intended benefits – losing weight/inches – and that there is no suggestion that the woman should lost weight or tone up other than her own desire to do so.

The Board acknowledged that there is a level of community concern around body image and eating disorders, especially with young women. The Board noted however that the advertised product, Hypoxi, is legally allowed to be advertised and considered that the woman’s declaration that she wants to drop two dress sizes is not of itself a suggestion that all women should try to be a smaller size but rather that this particular woman wants to do something about her size and is using the advertised product to help her.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on healthy body weight.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

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

