



Case Report

1	Case Number	0385/12
2	Advertiser	Roseleigh Manor
3	Product	Restaurants
4	Type of Advertisement / media	Internet
5	Date of Determination	26/09/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

Poster style advertisement on the advertiser's website which features a cast ensemble photograph for "sinderz. Who said Fairy Tales were for children". There are eight adults in the photograph wearing fancy dress costume and the text below reads, "Join us on a journey to the town of Wetwank, where you will be Entertained by the delightful sisters, Orgasma and Clit – Toris. Where Dick, Dez and Prince Big Thing battle it out for the hand (and everything else) Of the vaguely virginal Sinderz."

THE COMPLAINT

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

It is risque, is disrespectful and disgraceful. The reporters from The Daily Advertiser editorial staff - Wagga's daily newspaper - rang me for my thoughts on the matter. They had had a number of complaints from residents and as President of a Respect Campaign they were canvassing my reaction and thoughts. I believe anything like this should not be in the public domain where it can be seen by children and young teenagers particularly but for that matter the public at large as well. Parents and teachers are trying to instil values of Respect in children and this completely undoes these endeavours - it says to children that this is okay because I saw it in the street on a poster and it is on the internet. I know some people have also found it disrespectful because Roseleigh Manor was a Nuns' Retreat and to these people it is therefore desecrating the building and surrounding area of that property. The theme of

our Respect Campaign is to Respect other people, their rights and their property and this certainly does not conform with these ideals.

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 complaint made about the promotional material for our theatre restaurant production 'Sinderz' in the forms of a poster and a web page we wish to address the following points. Inappropriate language: The material contains several words, or variations of words, that make a humorous reference to body parts. Whether or not these words could be deemed inappropriate can only be judged in the context of whether these words are already in the public domain and their usage considered acceptable. We used the local newspaper, 'The Daily Advertiser', as a bench mark as it is in the public domain and available to teens and children without restriction. The paper's search engine revealed that the words 'orgasm' and 'clitoris' have appeared in a number of articles over the last few months without generating any adverse reaction from the general public. Several other sexually oriented words have also appeared with some regularity including vagina, penis, wank, oral sex and sodomy. We also noted that in a seven day period the same newspaper also ran more than 50 advertisements for escort services some of which included images and inferences of a sexual nature. We believe that in this context our promotional material is no more inappropriate, suggestive or explicit than what is already freely available, and apparently acceptable, to the general public. Sex, sexuality, nudity: The production does include humour of a sexual nature and the poster alludes to that. We believe that the production and the promotional material deal with sex in a manner that is clearly humorous, implied and relatively innocent in the same way that Benny Hill or any number of well accepted comedic productions do. There is absolutely no nudity in any of the promotional material and while some people are depicted wearing corsets and other brief apparel, it is less revealing than a great deal of public advertising including images for lingerie shops and cosmetics. There are numerous public promotions for sports cheer-leading squads and dance ensembles that are more suggestive and revealing than our material. The complainant asserts that our promotions undermine parents and teachers effort to instil respect and legitimise inappropriate behaviour. There is no empirical evidence that this is so and the complainant offers no supporting material to back their claims nor do they provide testimonials from parents or teachers. These assertions can only be viewed as the opinion of the complainant and not a fact or the opinions of the broader community. We contend that our promotions are consistent with other materials in the public domain and parents and teachers can interpret them in ways that are as positive as the complainant contends they are negative. It is true that the venue for the production used to be a nun's retreat however the church sold this property to the present owner and deconsecrated the grounds in the process. It is unreasonable to expect the owner to moderate or modify their business practices because of this history especially if it is detrimental to their profitability. Many business venues have a history but new owners are not usually expected to consider that when operating a new enterprise. In conclusion, we believe that our promotional material is entirely consistent with the community standards exemplified by our local media and 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 complainant’s concern that the advertisement is highly disrespectful, offensive and inappropriate for viewing by children.

The Board viewed the advertisements and noted the advertiser’s response.

The Board first 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 the advertisement is a promotion for a theatre performance and is available to view on their website. The Board noted the advertisement contains images of the cast dressed in costume. The heading of "Sinderz" is displayed above the cast and the smaller text below includes the phrase “Join us on a journey to the town of Wetwank, where you will be entertained by the delightful sisters Orgasma and Clit-Tori”

The Board noted the complainant’s concerns that the display of such material is indecent and gives the wrong impression to young adults and children about what is decent and respectful.

The Board noted that the imagery and wording used in the advertisement has a direct correlation to the production that it is advertising. The promotion is for a show and dinner package for adults and the Board considered that it is acceptable that the advertiser use images of the cast and associated text to promote the show.

The Board noted that the content of the advertisement is aimed at adults and considered that website is not likely to appeal to children and that if children were viewing the website they would likely be supervised by adults. The Board considered that the advertisement it did not contain any material which would be considered inappropriate by most reasonable members of the community.

On this basis the Board determined that the advertisement did depict sex, sexuality and nudity with sensitivity to the relevant audience and that it did not 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 and strong or obscene language shall be avoided”.

The Board noted that the phrases used do not contain any overt or highly sexualised material although they could be interpreted to have sexual innuendo. The Board considered that this sexual innuendo is unlikely to be understood by children and in the context of the theatrical performance, the use of these phrases are relevant and not obscene.

The Board considered that the references to “Orgasma and Clit-Tori” were implicit and not explicit, and that the words used by the advertiser are not words that appear in the dictionary, and that the accompanying visual images were not sexualised.

The Board noted the sexual innuendo of the wording in the advertisement and considered that the language used was not inappropriate and not strong or obscene.

The Board determined that the advertisement did not breach Section 2.5 of the Code.

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

THE INDEPENDENT REVIEWER'S RECOMMENDATION