



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0392/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Hypoxi Body Shaping</b>
<b>3</b>	<b>Product</b>	<b>Professional Service</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Poster</b>
<b>5</b>	<b>Date of Determination</b>	<b>10/10/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheld - Modified or Discontinued</b>

### ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

### DESCRIPTION OF THE ADVERTISEMENT

A black and white photo of the side view of a women's body. A nipple and breast side view is on show. There are dots to indicate where women will lose cellulite and centimetres.

### THE COMPLAINT

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

*I do not believe that women should be portrayed in this way, and I do not believe that nudity in public is appropriate.*

### THE ADVERTISER'S RESPONSE

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

*The poster has been displayed in the window for over 12 months. There are similar posters inside the shop. The original window signage was damaged when the window was vandalised last year and the glass window needed to be replaced. I have not been able to afford to replace the original signage. I therefore, had two Hypoxi posters and put them in the window space.*

*The poster is not on the main road but on the side street window. I have not received any complaints, written or verbal from any person in the community. The poster is very tasteful and not sexual in any way.*

*Since this anonymous person has had a concern I am happy to cover the breast and nipple with a star. I do however; feel that if a person is not prepared to put their name to a complaint, it should not be taken seriously. My concern is this person may be my competition trying to make trouble.*

*This person may not believe that women should be displayed in this way, but, the female in the picture is not posing in a sexual manner. We are dealing with the human body, predominately women and none of my clients have objected or even noticed till I brought attention to it with this complaint. This is the business I am in; we promote reshaping women's bodies. The poster has dots around the bottom, and thighs to show where the cellulite or centimetre loss will come from. In fact the eye is drawn to the lower half of the body.*

## **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 inappropriate nudity that is unsuitable for viewing by a broad audience.

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

The Board first 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 the model is photographed from the neck down and her head and face are not visible. The Board noted that the woman is presented in a manner which is intended to show the areas of the body that can be treated and reshaped.

The Board considered that it is appropriate that an advertisement for body reshaping to show particular areas of the body that would respond to treatment and noted that the overall theme of the advertisement did not to employ sexual appeal in a manner which could be considered exploitative and degrading.

The Board determined that the advertisements 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 the advertisement features images of a woman, one from the front with underpants on and her arms folded across her naked breasts and the other a side on image with visible nipple showing and her arm in front of her with her hand near her private area. Both images include large dots highlighting the areas of the body that can be treated within the facility.

The Board noted that the image of the front of the model has her private areas fully covered and there is no inappropriate nudity.

The Board considered the second image and noted that the pose of the woman from the side shows her naked breast and her nipple is clearly visible.

The Board discussed the findings of recent research conducted by the Advertising Standards Bureau around testing of Board decisions against broader community views and noted that the research indicated that the community is often more conservative than the Board around matters relating to sex, sexuality and nudity, particularly where children may view the images. The Board noted that it is reasonable for an advertiser of body reshaping to show uncovered bodies in their advertising and agreed that the images were related to the product.

The Board considered in this instance however, that the image of the woman side on with her exposed breast, together with the placement of her hand near to her genitals made the advertisement sexualised to the extent that it was not in line with community standards and not appropriate for display in a shop window where a broad section of the community including children could see it.

Based on the above the Board determined that the advertisement did not treat sex, sexuality and nudity with sensitivity to the relevant audience and therefore breached Section 2.4 of the Code.

Finding that the advertisement breached Section 2.4 of the Code the Board upheld the complaint.

### **ADVERTISER RESPONSE TO DETERMINATION**

We would like to propose the following steps which will work within the guidelines of the Advertising Standards Bureau.

1. The posters will be removed and frosting will be placed on the windows as soon as possible.
2. In the meantime, the breast will be completely covered by a star and the wording Hypoxi added next to it
3. With regard to the hand placement in front of the body, this too will be completely covered by another poster explaining what Hypoxi Body Shaping is achieving with reference to the dots around the buttocks.

There will be no nudity displayed and any sexual reference will be removed by the posters.