



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0417/14</b>
<b>2</b>	<b>Advertiser</b>	<b>Krystal Adult World</b>
<b>3</b>	<b>Product</b>	<b>Sex Industry</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Transport</b>
<b>5</b>	<b>Date of Determination</b>	<b>22/10/2014</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

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

### DESCRIPTION OF THE ADVERTISEMENT

Image of a woman on the side panels and bonnet of a purple vehicle. The woman is wearing a red and black bustier and black briefs, and is holding a riding crop against her thighs.

The text reads, "Krystal Adult World Byron Bay. Exotic Sexy Fashion. S & M Leather. Fun Toys & Lotions. Novelties. DVD's"

### THE COMPLAINT

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

*This van is parked on the same street everyday (for years). Until recently, it was only a worded sign on the side of the van. But it has been repainted with the new image of the scantily clad woman with a whip. It is the only way in or out of town, and we have to drive by this image several times a day. I have young children who I feel shouldn't have to wonder about what that image means just yet. No one should have to explain to her 3 and 5 year old children what a mostly nude woman is doing with that whip.*

### THE ADVERTISER'S RESPONSE

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

*Fact one: The model is holding a riding crop, not a whip. These are the products we sell in our business. Your suggestion that the ad is offensive is incorrect. It is not a nude woman, but in fact a lady which you can see on any beach or television.*

*Fact two: The complainant is mistaken about there being only one access into Byron Bay. There are in fact 3 accesses into town.*

*Fact three: I have the right under the Federal Constitution and the Federal Trade Practices Act 1994 to conduct my business in any lawful manner I see fit.*

*Fact four: Section 24AA Federal Crimes Act 1914 states that any act to sabotage the Constitution is treachery, section 25, 1903 Judiciary Act states that all high court rulings maybe enforced. Einfeld V.S.D.R.O. H.C.A. Your bureau is not a court and cannot give a penalty. The ad is not offensive. I am sorry the complainant found an offensive suggestion in the ad. The vehicle has had this new signage for approximately a month now and the complainant is the only person who has lodged a complaint.*

## **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 depicts an image of a scantily clad woman holding a whip which is inappropriate for display outdoors where children can view it.

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

The Board 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 placed on a bright purple vehicle and features an image of a woman in lingerie.

The Board noted that it had previously dismissed similar images of women on a vehicle in cases 198/10 where:

“The Board noted that the woman in the advertisement is scantily dressed but the depiction is not inappropriately sexualised with the placement of the wheel minimising the impact of the image and there is no nudity.”

In this instance the Board noted that the woman’s bikini fully covers her private areas and considered that the pose of the woman is not overtly sexualised.”

and 0384/13 where:

“...the Board noted that whilst some members of the community would prefer for adult shops to not be advertised, in the Board’s view the advertisement does not show any private parts of the woman and whilst the woman’s pose is mildly sexualised it is not inappropriate for a broad audience which would include children.”

In the current advertisement the Board noted that the woman’s private areas are fully covered and considered that whilst the lingerie she is wearing is mildly sexualised her pose is not overtly sexy or sexualised. The Board noted the complainant’s concern that the woman is holding a whip and considered that it is a riding crop the woman is holding. The Board noted that the use of a riding crop as a sex toy is not something that children would be aware of and considered that its inclusion in the advertisement is unlikely to be of interest to, or understood by, children. The Board noted that the image of the woman and the accompanying text are relevant to the advertised product.

The Board noted that the image is on a vehicle which means it would likely be seen by children however the Board considered that the advertisement is relatively mild and does treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.

The Board considered that the advertisement did not include any sexualised images and determined that the advertisement 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 complaint.