



Case Report

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| 1 | Case Number | 0418/11 |
| 2 | Advertiser | Eskanders Betstar Pty Ltd |
| 3 | Product | |
| 4 | Type of Advertisement / media | Internet |
| 5 | Date of Determination | 09/11/2011 |
| 6 | DETERMINATION | Upheld - Modified or Discontinued |

ISSUES RAISED

2.6 - Health and Safety - within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The landing page for the betstar.com.au Facebook site (<https://www.facebook.com/BETSTAR.COM.AU>) from the 2nd September, 2011 until the 21st October, 2011. It features an image of a horse with a cricket bat, football, racquet, rugby ball and then a man all balanced on its back. The main text reads, "Like betting? Like Betstar" and in the descriptive text underneath it says, "Isn't the internet incredible? Not only does it help you stalk your ex. you can also have a punt....Or just get back to your stalking. It really is a victimless crime."

THE COMPLAINT

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

I object to the way this ad makes light of a crime that is definitely not a victimless crime and is one that can not only cause great distress and trauma to the victim but also one that can end in violence and murder.

Clearly they're going after a particular demographic but this level of ignorance is not only low-brow it's offensive and dangerous.

THE ADVERTISER'S RESPONSE

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

Please note that Eskander's Betstar takes these issues very seriously and it was never our intention to offend anyone and we apologise if offence has been taken to this particular advertisement.

Rationale to Advertisement

This 'ad' was a landing page for the betstar.com.au facebook site (<https://www.facebook.com/BETSTAR.COM.AU>) and was live from the 2nd September, 2011 until the 21st October, 2011.

The tone of the ad is deliberately light hearted and cheeky and was not an attempt to portray violence via our reference to stalking nor did we intend it to be contrary to prevailing community standards.

Our intention was to make light of the fact that a lot of facebook users can't resist looking up their ex-partners on facebook to see what they have been up to. When we refer to 'stalking' on facebook we are attempting to refer to the above scenario as opposed to the more serious implications of stalking that "can end in violence and murder" as raised by the complainant. Facebook Stalking is a common term in the modern day vernacular that does not have the serious implications of text book stalking.

The language used in our ad and the reference to 'stalking' is contemporary and we can appreciate how it may be misinterpreted, however when read in context we think it is clear that this was not our intention.

Section 2.6 of the Australian Association of National Advertisers Code of Ethics specifies that "advertising or marketing communications shall not depict material contrary to prevailing community standards on health and safety".

Your website defines prevailing community standards as "the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it sees fit." I believe the Advertising Standards Board should take into account that if the ad was interpreted in the light-hearted way we intended it would not be contrary to prevailing community standards. However in light of the complaint and the misinterpretation we have removed the landing page to avoid further offence to people who may interpret the ad in a way we did not intend.

We have reviewed section two of the Australian Association of National Advertisers and are comfortable that the advertisement does not intentionally attempt to breach any of these items and hope that you come to a similar conclusion.

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 this advertisement makes light of a crime and is offensive and dangerous.

The Board considered the advertisement within the context of Section 2.6 of the Code which requires that advertising or marketing communications shall not depict material contrary to prevailing community standards on health and safety.

The Board noted the advertisement features text which reads, “Isn’t the internet incredible, not only does it help you stalk your ex...or just get back to your stalking it really is a victimless crime.”

The Board noted the advertiser’s response that the term ‘stalking’ is a reference to looking up ex partners on Facebook to see what they have been up to’ and that the intention of the advertisement is lighthearted and intended to draw the obvious difference between Facebook stalking and actual physical stalking.

The Board noted that it has previously considered a reference to ‘stalking’ on Facebook (0311/11 Huawei) and in that case considered that although some people would find the term ‘stalking on Facebook’ to be unpleasant and/or offensive, the intended audience of this advertisement would clearly understand the meaning of the advertisement, and to those who do not readily understand the contemporary meaning of the term ‘stalking on Facebook’ the phrase in itself is not inappropriate in the context of the advertisement. In that case the Board considered that the advertisement did not breach the Code.

In the current case however the Board noted a number of references to ‘stalking’, a mildly sexualised reference to being able to do a variety of things ‘without having your pants on...’ and a reference to ‘stalking’ being a victimless crime.

The Board considered that the advertisement was intended to be humorous but noted with concern that stalking is a crime and that it is not a crime that is victimless.

The Board expressed concern at the advertisement’s encouraging (even in a humorous manner) a crime. In the Board’s view it is possible that some members of the community would see the advertisement as condoning or at least giving some legitimacy to stalking and that this is a message that the community views as unacceptable.

The Board considered that this advertisement depicted material contrary to prevailing community standards on health and safety and was in breach of Section 2.6 of the Code.

Finding that the advertisement breached section 2.6 of the Code the Board upheld the complaint.

ADVERTISER RESPONSE TO DETERMINATION

Please be advised that upon receiving the original notification from the Advertising Standards Bureau, Eskander's Betstar removed the facebook landing page and it has not been live since the 21st October, 2011.

The page has been modified and we are reviewing our options in relation to appealing.