



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0420/15</b>
<b>2</b>	<b>Advertiser</b>	<b>Urban Purveyor Group</b>
<b>3</b>	<b>Product</b>	<b>Bars/Clubs</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Transport</b>
<b>5</b>	<b>Date of Determination</b>	<b>28/10/2015</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

The ad is of three women dressed in traditional Bavarian dress with a modest amount of cleavage showing holding big mugs of beer right in front of them and smiling suggestively. The middle women is holding a beer that has spilled over the side of the glass.

## THE COMPLAINT

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

*The middle women is holding this big mug of beer between her breasts as the froth is exploding out of the mug, and spilling out everywhere. This ad is highly fallic & suggestive of a male ejaculation next to her breasts and extremely sexist and offensive. I was driving behind a public bus when I saw this add, and my kids said it was quite embarrassing to them and I tried to pretend it didnt bother me. I also saw a Facebook post on this add where over 65 women have posted the ad is very distastful, sexist, offensive ,and degrading women.*

## THE ADVERTISER'S RESPONSE

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

*The advertisement is part of a series of advertisements in the campaign. There adverts show Bavarian women enjoying the spirit, atmosphere and bier that Oktoberfest is famous for. There is one advertisement which show a group of three women laughing and enjoy a stein of bier, which is shot in one of our Bavarian venues. This advertisement, accompanied by the tag line "Overflowing with excitement." is intended to convey the spirit of Oktoberfest whereby friends and strangers alike come to share in the joyous festivities. Oktoberfest is well known for been a place of fun, festivities and the celebration that happens there every year for 6 million people. These advertisements when viewed as part of the holistic campaign, represents the celebration of where people choose to go during the Oktoberfest festival in Australia each year, in this particular case it is referring to the Munich Brauhaus.*

*Due diligence via Approval Process*

*All of the creative was put through a rigorous process and was adapted to ensure it fell in line with the codes of ABAC, OMA and the commercial regulations of JC Decaux. They all deemed the material to be appropriate for advertising.*

*REASON FOR CONCERN:*

*AD DESCRIPTION: The ad is of 3 women dressed as beer wenches with a lot of exposed cleavage holding big mugs of beer right in front of them and smiling suggestively. The middle women is holding a beer that has essentially "exploded" and is running out in front of her.*

*REASON FOR CONCERN: The middle women is holding this big mug of beer between her breasts as the froth is exploding out of the mug, and spilling out everywhere. This ad is highly phallic & suggestive of a male ejaculation next to her breasts and extremely sexist and offensive. I was driving behind a public bus when I saw this add, and my kids said it was quite embarrassing to them and I tried to pretend it didn't bother me. I also saw a Facebook post on this add where over 65 women have posted the ad is very distasteful, sexist, offensive, and degrading women.*

*Response to the complaint:*

*Thank you for taking the time to give your feedback, we take all complaints very seriously and this concern you have raised is no different. We feel very strongly that you have misinterpreted this advertisement which is part of a multi-channel Oktoberfest campaign. The complaint notes that: "This ad is highly phallic & suggestive of a male ejaculation next to her breasts and extremely sexist and offensive."*

*This is not the case, the purpose of this series of adverts is to capture the fun, conviviality, costumes and the Bavarian fare that is synonymous with Oktoberfest, which is an event that 6 million people attend every year in Germany, many of whom choose to dress in traditional attire. Throughout Oktoberfest, and at our venues, patrons and staff often wear traditional Bavarian outfits – which for women is the dirndl - and can be seen in the image.*

*The complaint goes further to note that: "I was driving behind a public bus when I saw this add, and my kids said it was quite embarrassing to them and I tried to pretend it didn't bother me. I also saw a Facebook post on this add where over 65 women have posted the ad is very distasteful, sexist, offensive, and degrading women."*

*We are a family-friendly business, with a large contingent of respected and highly valued female team members and by no means would we ever discriminate against women or do anything that leads to inequality or harassment in the workplace or in Australia. This statement is non-factual and is a stretch to be garnered from this advertising. To suggest that these advertisements aim to degrade women is a particularly narrow interpretation of*

*the material and not in line with the Munich Brauhaus brand and ethos.*

*The Oktoberfest festivities that take place at Munich Brauhaus are a celebration of Bavarian food, bier and music which are attended by thousands of Melburnians who seek an authentic and joyous Oktoberfest experience. We have a range of unique activities on offer ranging from family Sundays to Ladies Night and more.*

*It would be our pleasure to further show you the Munich Brauhaus experience, including the traditional attire for both male and female, during Oktoberfest and experience the array of events and activities taking place across the next 6 weeks.*

## **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 sexist and demeaning in its depiction of women and includes a phallic representation that is inappropriate.

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

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that ‘advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.’

The Board noted that this image featured three women holding steins of beer and the text to the right reads: “overflowing with excitement.”

The Board noted it had considered similar complaints for the same advertiser (0239/15, 0359/15, 0360/15 and 0405/15) where similar images and slogans have been used.

The Board noted that overall tone and theme of all of this advertising material is of a similar nature and the images generally depict women in low cut blouses which exposes a modest amount of cleavage. The Board considered that similar to the dismissed cases above, in the current advertisements, the style of dress is consistent with the traditional style of Bavarian clothing worn in bier houses and noted that although there was cleavage visible, the women’s breasts are not inappropriately exposed.

The Board noted that the women appear confident and happy to be associated with the brand.

The Board considered that in this particular matter the image featuring three young women did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board considered whether the advertisement was in breach of Section 2.2 of the Code.

Section 2.2 of the Code 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 in order to be in breach this section of the Code the image would need to use sexual appeal in a manner that is both exploitative and degrading.

The Board noted that whilst the women are showing some cleavage, in the Board’s view the focus is not on this part of the woman’s body but on the three women as a whole. The Board noted that the advertisement does employ sexual appeal by showing attractive women with their breasts emphasised but considered that whilst this tactic could be considered exploitative in the Board’s view it is not a degrading image of women.

The Board considered that the advertisement did not employ sexual appeal in a manner which

is exploitative and degrading towards women.

The Board determined that the advertisement 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 the complainant’s concern that the beer stein in the middle of the image is overflowing and that this is a phallic suggestion of male ejaculation.

The Board noted that the woman in the middle of the group of three has her beer stein tilted slightly and as the beer is full, there is some beer froth running down the side of the glass.

The Board noted that whilst there is a possible interpretation that the spilling beverage in connection with the words “overflowing with excitement” is intended to be sexually suggestive, the Board agreed that this is an unlikely interpretation and that most members of the community would interpret the image to mean that the venue and event is an exciting place to be.

The Board considered that as there is no direct sexual suggestion and no nudity or exposed breasts, the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

The Board then 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 the advertisement shows the women holding a stein of beer each. The Board noted that while this could be considered a large quantity of beer, the type of glass is of a size that is commonly associated with a bier hall of this nature and noted that the advertiser is legally allowed to show the beer in a manner in which it can be purchased.

The Board noted that there is no depiction of any person actually consuming beer in the images. The Board agreed that the intention of the advertisements is to promote the venue and Oktoberfest and suggests that celebrations should be shared among friends.

The Board considered that the advertisements do not condone or encourage excess consumption of alcohol and does not depict material contrary to prevailing community standards of health and safety.

The Board considered the advertisement did not breach section 2.6 of the Code.

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