



CASE REPORT

1. Complaint reference number	06/10
2. Advertiser	Go Transit
3. Product	Other
4. Type of advertisement	Transport
5. Nature of complaint	Portrayal of sex/sexuality/nudity – section 2.3
6. Date of determination	Wednesday, 10 February 2010
7. DETERMINATION	Upheld – discontinued or modified

DESCRIPTION OF THE ADVERTISEMENT

This transport advertisement depicts a heavily tattooed woman wearing a bikini with a cigar in her mouth and a man with his hands on his head with a tattoo on his back. The advertisement is promoting a tattoo artistry shop.

THE COMPLAINT

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

It is bordering on soft pornography, it is distasteful, it is inappropriate to be on a bus servicing the community.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

The display is on one bus operated by Busways as a general service bus, however I do understand that it was originally posted in error on a bus that was found to only be used as a limited school service and had to be reprinted and re-installed at our cost as it clearing wasn't reaching the clients target audience.

As can be seen the advertisement features both a male and female displaying the growing trend for body tattoos that are currently considered a fashion accessory across varied demographics from Hollywood to Hobart.

The client wanted both male and female images to reflect their varying and wide ranging skills.

The complaint seems to focus on the female who is showcasing her body art in what I would have thought would be the only way possible ie. wearing a 'street legal' bikini. The female also has an 'unlit' cigar in her mouth designed to further promote the fact that women can now do anything a man can do.....or at least they should be able to!

This advertisement was clearly never aimed at children who by law cannot use the services on offer nor intended to be demeaning to women who after all represent half the advertisers potential clients.

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 and considered whether the advertisement was in breach of section 2.3 and 2.6 of the Code.

The Board noted that the advertisement is placed on a public transport vehicle and depicted a woman with a cigar in her mouth. The Board considered that the advertisement glamourised smoking and noted that it has previously determined that it is a breach of prevailing community standards on health for an advertisement to glamourise smoking. The Board considered that in this case the depiction of the woman with a cigar is a depiction that glamourises smoking and is in breach of prevailing community standards on health on health and safety. The Board determined that the advertisement breached section 2.6 of the Code.

The Board then considered whether the advertisement was in breach of section 2.3 of the Code. Section 2.3 of the Code states that advertising or marketing shall treat sex, sexuality and nudity with sensitivity to the relevant audience and where appropriate, the relevant program time zone. The Board noted that when construing the application of section 2.3 of the Code, it considers the tone, context and medium via which a product or service is promoted and whether the audience is restricted.

The Board agreed that this advertisement is prominently placed on the side of a bus and therefore it was unlikely that the broadcast of this advertisement would be restricted to a particular audience or demographic. The Board noted that the woman was wearing a bikini and noted that there was no nudity. The Board noted that there is no prohibition on including images of women in bikinis in advertising. However, the Board considered that the depiction of the woman's mouth around the cigar was sexually suggestive and that the cigar was suggestive of a phallus. The Board also considered that the woman's pose, in conjunction with the mouth and cigar, made the advertisement sexually suggestive and sexualised and that the image was also of dark sexuality.

The Board noted that the advertisement is for tattoos and that it is reasonable for such as advertisement to show tattoos as they appear on people's bodies. The Board noted the difference in the depiction of the man (in a strong pose clearly focused on depicted the tattoo) with the image of the woman (in a sexualised manner). The Board noted the medium in which the advertisement appears and considered that the advertisement's depiction of the woman in a sexualised manner was not sensitive to the relevant audience. The Board determined that the advertisement was in breach of section 2.3 of the Code.

Finding that the advertisement was in breach of sections 2.3 and 2.6 of the Code, the Board upheld the complaint.

ADVERTISERS'S RESPONSE TO THE DETERMINATION

Comments which the advertiser made in response to the determination regarding this advertisement included the following:

The display was replaced with a modified version within 48 hours of receiving your initial advice.