



CASE REPORT

1. Complaint reference number	109/09
2. Advertiser	Fernwood Fitness Centre
3. Product	Health & Fitness
4. Type of advertisement	Transport
5. Nature of complaint	Discrimination or vilification Gender - section 2.1
6. Date of determination	Wednesday, 8 April 2009
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

The ad has a picture of an exercising woman holding an exercise ball, with the byline stating, "These are the only balls you will find at Fernwood Health Club". The ad is located over the whole of the vehicle, with the picture and byline on the sides of the car and the back.

THE COMPLAINT

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

It is known that the organisation (Fernwood Women's Health Clubs) is a female only club, which is evident through their name. For their vehicles to promote a controlled environment regarding a female's ability to exercise is acceptable. To push derogatory innuendo as they are through this ad is insulting and discriminatory.

Would an exclusive male club be able to utilise a similiar advertising technique?

THE ADVERTISER'S RESPONSE

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

We acknowledge the complaints point of view however we do not believe that the advertisement breaches the AANA Code of Ethics. Fernwood has an EEO exemption to operate women's only facilities (A264/2004). We note that complaints related to our advertising typically stem from a disapproval of Fernwood operating women's only facilities. Albeit this complainant acknowledges our right to do so, typically this is the primary cause of concern.

This aside, we believe that the advertisement does not in any way "discriminate or vilify a person or section of the community on account of race, ethnicity, nationality, sex, age, social preference, religion, disability or political belief." The advertisement is a light-hearted play on words and meaning, and intended to be comical. In the context of societal standards we do not believe that the advertisement is breeches the AANA Code of Ethics.

Please note that it is not our intention to offend in any way.

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 that the operation, and hence advertising, of women-only health clubs is permitted under Australian law and that the Board could not make a decision that the advertisement should not

be broadcast on that basis alone.

The Board therefore considered whether the content of the advertisement, in particular 'these are the only balls you will find at Fernwood' breached any provision of the Code, particularly section 2.5.

The Board considered that most people would see the use of the phrase, in conjunction with women using fit balls, in the way it is intended—a humorous twist incorporating a vernacular saying. The Board considered most people would not take offence at the language.

The Board determined that the material did not contravene the Code in its use of language.

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