



CASE REPORT

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| 1. Complaint reference number | 114/09 |
| 2. Advertiser | Oztonez/Red Circle |
| 3. Product | Mobile Phone Picture Downloads |
| 4. Type of advertisement | Print |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 22 April 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This print advertisement on the back of Take 5 magazine features an array of ring tone and download subscriptions. Services available include realtones and MP3 downloads, mobile games, wall papers and videos. The advertisement contains many images related to the download choices.

THE COMPLAINT

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

These images are on the back of a FAMILY oriented magazine. my children have come to me and asked what these women and men are doing.. This is family magazine, not my husbands adult material magazines and i should have the ability to leave these family magazines around my house with out fear of my children being exposed to pornographic images.

I am not a prude by any means, however I do not think this type of material is appropriate for a family magazine.

THE ADVERTISER'S RESPONSE

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

Thank you for your email of 20th March 2009 regarding the advertisement placed by Red Circle Technologies (Red Circle) in Take 5 4th March. We acknowledge the complaint and have reviewed the ad in question.

All our advertisements take into consideration the nature of the publication and are created with a sense of responsibility and decency. The publication in question has a female readership with an average age of 44 years old with 93% of readers are age 18 or over (source: ACP). The editorial content of Take 5 frequently contains sensationalised stories about such topics as murder, lust & sexual intrigue. We believe that our advert is in keeping with the tone of Take 5 and is consistent with the nature of the publication. Children and families are not part of the demographic focus of this publication. Based on this we do not feel that our adverts are inappropriate for the magazine that they appear in.

Our ads are created with a sense of responsibility and decency and adhered to various premium rate regulatory requirements. The ad is in adherence with the editorial guidelines set out by the publisher.

Red Circle have been advertising in Take 5 a weekly basis for a number of years now and have worked with the editorial team to ensure that our advertisements would not be offensive or

inappropriate for a publication with such a large circulation. We have never previously received a complaint about our advertisements in Take 5 which we believe goes a long way to demonstrating that our adverts are not inappropriate for a publication with such a large readership.

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 contained numerous images with sexual connotations, inappropriate for the back cover of a family magazine. The Board considered the application of Section 2.3 of the Code, relating to sex, sexuality and nudity, which provides:

"Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone.

The Board noted the advertiser's response that the relevant publication in which the advertisement featured has a readership comprising mostly females over the age of 18 and that the editorial content is directed towards a more mature audience.

The Board noted that the images in the advertisement are small and feature alongside a number of images relating to different ringtones and mobile phone downloads.

The Board agreed that some of the images were sexualised and sexually suggestive. However, the Board considered that those images were not overly explicit having regard to the relevant audience of the publication and noted that the impact of those images is diminished by the size and position among the number of other images contained in the advertisement. The Board therefore determined that the advertisement did not breach Section 2.3 of the Code.

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