

CASE REPORT

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| 1. Complaint reference number | 189/09 |
| 2. Advertiser | Club X |
| 3. Product | Professional Services |
| 4. Type of advertisement | Outdoor |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Thursday, 14 May 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This outdoor billboard for Club X Adult Mega Mart has the image of a woman, visible from her chest up. The woman is portrayed as being naked, however there is no visible nudity. The woman is holding what appear to be silver baubles in her left hand. Wording on signage provides location of store.

THE COMPLAINT

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

I take exception to the pictorial content of Club X's billboard on the corner of High and Bell Street, because of the potential to expose underage individuals to sex toys.

Section 2.6 of AANA's code of ethic states that "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety." Similarly Section 2.3 of the Australian Association of National Advertisers Code of Ethics states that "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audiences, and where appropriate, the relevant programming time zones."

I would strong argue that Club X billboard fails to meet the AANA code. The Billboard is completely insensitive to the underage audience who may be sitting in a child car capsule or booster seat, inappropriately exposing young children to sex toys. In September I am expecting my first child and I do not want him or her exposed to these kind of images - I personally consider that Club X exposing any child to this billboard amounts to corporate paedophilia; children who are exposed to these images are sexually groomed through exposure to sexualised images and sex toys. I would also argue that Club X billboard is in direct contravention of AANA's code of ethics and the prevailing community standards, especially those involving the exposure of underage individuals to sexualised images and sex toys. And as a consenting adult (or rather, an 'unconsenting adult' in this case) I personally do not want to be exposed to these kind of blatantly gross forms of advertising of sex toys while sitting at the traffic lights. I look forward to hearing back from the Advertising Standard Board in the near future.

THE ADVERTISER'S RESPONSE

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

This particular advertisement is over 3 years old and has been displayed on this site on for around 2 years, month on month off and this is the first complaint received.

We believe this advertisement is not in contravention of the AANA Code of Ethics, nor would it breach any community standards.

The information or text contained in the advertisement is not sexually suggestive and is of an informative nature only i.e. location of store, phone number etc.

The image depicts a female holding 2 round objects that are used for external massage, similar to any external massaging device found in Harvey Norman or similar outlets. Whilst “Anal Beads” are available for purchase in our stores, they are certainly not depicted in this image nor would we entertain the idea of depicting anything that would not be available in un-permitted stores. These ‘beads’ are more like the size of peas, rather than these large objects.

The female depicted is displaying only the very top of one breast and the suggestion of whether she is “moaning” or “gasping” is of no relevance in my opinion. More would be seen of a breast in a swimsuit or lingerie photo.

I am unfamiliar with the term “Corporate Paedophilia” but am frankly disgusted by the inference. This offensive accusation is bordering defamatory and does not warrant a response.

Club X is a responsible corporate citizen. We are regular contributors to many state and national charities and employ over 160 Australians – 40% of whom are female and many who are mothers. We are sensitive to community standards and all of our senior management are parents.

Whilst I understand and appreciate the concerns of the complainant, I believe the nature of the business is more the issue than the advertisement itself. Lingerie and alcohol companies are notorious for far more sexualized images than this. Yet the alcohol industry receives little attention, as alcohol use (and its abuse) is viewed by some as more socially acceptable than anything to do with sex.

In my opinion the advertisement does not contravene any community standards or those of the AANA.

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 depicted sex toys in a public setting where it may be viewed by children, and considered the application of Section 2.3 of the Code, relating to the treatment of sex, sexuality and nudity.

The Board noted that any nudity suggested in the advertisement is obscured and considered that the image used was a mild reference to what may be available in the adult store being advertised. The Board considered that the suggestive nature of the image, or suggestion of using the silver balls as a sexual aid was aimed at adults and was unlikely to be understood by children. The Board also noted that the text used in the advertisement was not sexually suggestive. The Board therefore determined that the advertisement treated sex, sexuality and nudity sensitively to the relevant outdoor audience and found no breach of Section 2.3 of the Code.

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