



CASE REPORT

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| 1. Complaint reference number | 28/08 |
| 2. Advertiser | Mercury Mobility Pty Ltd (Holly/Playboy) |
| 3. Product | Mobile Phones/SMS |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 13 February 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features static photos of female Playboy models and the Playboy "Bunny" logo. A female voiceover announces "Text Holly to 1-99 BUNNY for videos, pics and hot videotones of Bridget, Holly and Kendra, plus Playmates and official Playboy bunny logos. Wanna join the party? Text Holly to 1-99 BUNNY."

THE COMPLAINT

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

I object to the nudity in this ad in showing the girl's butt in nothing but a g-string. This is something I don't want to have to see as I watch late night TV, and I should have the right to be able to watch TV in my own home without having such images imposed upon me against my will.

THE ADVERTISER'S RESPONSE

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

We at Mercury Mobility take our responsibilities to the general community very seriously and we are fully committed to the regulatory framework relevant to our industry, including adherence to the AANA Code of Ethics and attendance to the advice of Free TV (CAD). We aim to deliver customers the product they want only via appropriate channels. In all respects we aim to assume a leadership role in defining responsible standards and practices for our industry.

We have taken note of the complaint and reviewed the advertisement. Whilst it saddens us that the complainant feels offended, we believe the time and placement of the advertisement was relevant and appropriate. We welcome the Board's own assessment. Free TV assessed the advertisement before broadcast and advised that the advertisement receive an 'A' classification (CAD Number: AN9XKCBA). We understand this permits broadcast "between 9.00pm and 5.00am on any day, except in G or PG programs or sport" starting earlier "and ending before 10.30pm". This advertisement was broadcast at 12.08am. Unfortunately the time registered by the complainant does not match any placement in our records, but the complainant may have been watching the late night film on Saturday 17th November rather than Friday 16th. In respect of program time zone and audience 'A' and even 'S' rated content would be anticipated here.

Our own assessment is that that nudity depicted with the model wearing a 'g-string' is of mild or moderate impact to the general community. We recognise there is a stronger impact in regard to the classifiable element of sex with some other depictions in the advertisement, but not so requiring restriction beyond Free TV's 'A' for example. We therefore feel the advertisement treats sex and nudity with sensitivity to this particular program time zone and audience.

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 concern that the advertisement was inappropriately sexual.

The Board noted that it is legal for advertisements to advertise products such as sex or nudity related mobile phone services provided that such advertisements comply with the Code.

The Board noted Section 2.1 of the Code which prohibits 'discrimination or vilification of people on account of their gender or sex'. The Board considered that the depiction of women in sexually suggestive advertisements, while undoubtedly capable of being demeaning to women depending on the particular advertisement, was not of itself objectification of women that amounted to a breach of Section 2.1.

The Board noted Section 2.3 of the Code which states that 'advertisements shall treat sex, sexuality and nudity with sensitivity to the relevant audience and where appropriate, the relevant programme time zone.'

The Board noted that this advertisement is aimed at the adult male market and is only able to be shown on television after 11pm.

The Board noted that the women in this advertisement are either clothed - albeit in lingerie; or have their breasts and genitals hidden behind stars or silhouetted out. The Board agreed that the advertisement is risqué and sexually suggestive and noted the images of a woman wearing a g-string. The Board noted that most of the images are still images and that there is not explicit sexual activity depicted. The Board considered that the advertisement was appropriate for the late night time zone and was not in 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.