



## **CASE REPORT**

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|-------------------------------|---|
| 1. Complaint reference number | 31/09   |
| 2. Advertiser                 | Aussiebum                                       |
| 3. Product                    | Clothing  |
| 4. Type of advertisement      | Outdoor   |
| 5. Nature of complaint        | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination      | Wednesday, 11 February 2009                     |
| 7. DETERMINATION              | Dismissed                                       |

## **DESCRIPTION OF THE ADVERTISEMENT**

This outdoor advertisement for Aussiebum's swimwear range shows a nude man wading in the ocean. The image shows the man's back and buttocks with swimwear draped over his shoulders. Aussiebum's web address is seen in the bottom left corner of the advertisement.

## **THE COMPLAINT**

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

*This ad contains nudity. If this ad were to be on television, it would have to be aired during an appropriate time slot. If this scene were on a tv show or movie, it would have to warn the viewers of nudity. Therefore, I feel it is not appropriate to have this ad on a billboard for all ages to see... no matter the size of the picture of the man, it is still nudity.*

*I feel that its incredibly offensive to have a naked man on a billboard which is very different from TV when the appropriate audience can be isolated. Anyone driving past that billboard, possibly with children in their car, are subject to the content of the advertisement.*

## **THE ADVERTISER'S RESPONSE**

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

*I must say it is with some surprise that over the 4 month period that the billboard has been up we have never received any complaints until these two. As our contract for that space and time period has expired I should also inform you that the particualr artwork in question will probably be down by the time the complaints have been processed. We are in the middle of creating new art for our next series of outdoor advertising. Regardless, we want to co-operate fully.*

*Finally, I should like to add this particualr ad has been doing the rounds both in the US & UK on billboards, back of buses and at bus shelters, providing only positive feedback from passer-bys. I know everyone is entitled to their opinion and it certainly was not our intention to offend.*

## **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 complainants' concerns about the depiction of nudity in an outdoor advertisement in full view of any member of the public, including children. The Board considered the application of Section 2.3 of the Code, relating to sex, sexuality and nudity.

The Board noted that the image is of a naked man, shown from behind in a beach setting. The Board considered the depiction of the man was not sexualised, having regard to the beach setting and swimwear product advertised. The Board also noted that no genitalia could be seen.

The Board noted that the image was a graphic representation of a play on words of the advertiser's name (ie an "Aussie bum"). The Board also noted that a number of people in Australia would swim nude in the sea, and the image suggested a secluded setting with no other people depicted in the picture.

The Board noted that, while the image may have suggested a secluded setting, it was displayed on a billboard in full public view. The Board considered that the key issue for consideration is the relevant audience of this outdoor advertisement and whether the treatment of nudity in the advertisement was sensitive to that relevant audience.

The Board noted the distinction between the target audience of the advertiser and the relevant audience of the advertisement. The Board noted that the billboard advertisement is large in size and displayed outdoors where any member of the public could view it. The Board therefore considered the relevant audience of this advertisement is very broad, including children. The Board noted that advertisements displayed in such forms of media cannot be filtered by parents to prevent children viewing them. The Board expressed concern that billboard advertising must ensure that it is sensitive to a broad audience. In the case of this specific advertisement, despite the broad audience of the advertisement, the Board considered that the advertisement's relevance to the product, the lack of any sexualised suggestion in the advertisement and the fact that the nudity depicted no genitalia meant that the advertisement treated nudity with sensitivity to the relevant audience. The Board determined that the advertisement did not breach Section 2.3 of the Code.

Further finding that the advertisement did not breach any other sections of the Code, the Board dismissed the complaints.