



## **CASE REPORT**

1. Complaint reference number	310/07
2. Advertiser	The Sydney Hellfire Club Pty Ltd
3. Product	Entertainment
4. Type of advertisement	Internet
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Tuesday, 11 September 2007
7. DETERMINATION	Upheld – discontinued or modified

## **DESCRIPTION OF THE ADVERTISEMENT**

This advertisement on Hellfire's own website features a female patron, topless except for braces and a bowtie. She is standing outside the venue holding a cigarette in her left hand.

## **THE COMPLAINT**

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

*Poster advertisement appearing on telegraph poles, internet and Sydney press depicting a bare breasted woman and a cartoon logo both in an attempt at the unnecessary glamourisation of smoking. Now that the exemption from smoke-free environment legislation has finally been removed from hospitality venues and contrary to their own stated policies.*

## **THE ADVERTISER'S RESPONSE**

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

*The Hellfire Club is a small Sydney nightclub established in 1993 that meets once a month, bringing together fetish enthusiasts for a regular social outing. We have not advertised our presence since 2002, due to harassment by people who object to our existence. Contrary to the allegations in the complaint, we have not used telegraph pole posters since 2002, nor have we advertised in any Sydney press as alleged – also since 2002. We are dismayed that this completely unfounded and untrue allegation has found its way into an official complaint to the Advertising Standards Bureau. Basically we went “underground” in 2002, removing ourselves from public visibility in an attempt to create a safe and secure environment for our patrons, who are already subject to much negative feedback about their particular personal preferences.*

*We celebrate diversity, tolerance and difference of all ages, shapes, sizes and sexualities – and each month we choose a different photo from the previous month's outing to forward promote the next month's outing. The September artwork is the first and only time that anyone has had a cigarette in their hand.*

*The artwork that is the subject of the complaint has only appeared on our blog, and in 20 laser-printed A3 posters that have been displayed inside the club (12 posters) and inside the four specialist fetish fashion boutiques (2 posters each) in Sydney. They are not “public-facing” advertising in any way. The only people that get to see our artwork are those “in the know” who are part of Sydney's small fetish community. We do not seek to recruit from the general public, we just want to be left alone to do our thing.*

*The image can hardly be considered as advertising in the generally held sense of the word when it*

*is so hidden from public view. There would be, at best, some hundreds of people that would ever see each one. Their life span is 4-5 weeks maximum.*

*W will undertake to not use this particular image again and will ensure that no future artworks include any cigarettes, to ensure that this kind of vexatious complaint cannot be repeated.*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board considered whether the portrayal of a young woman who appears to be smoking a cigarette was a depiction of material that contravened community standards on health and safety. The Board noted that government policy is to reduce the exposure of the public to messages and images that may persuade them to start or continue smoking or use tobacco products. The Board considered that while the community tolerates a level of smoking it does not tolerate images which promote smoking as glamorous or cool.

The Board was of the view that the depiction of smoking in advertising is unacceptable. Whilst the Board noted that the ad depicts a real person, a club patron, the advertisement is being used to promote the club, which is by law a smoke-free venue. The Board noted the advertiser’s response which stated the image will not be used again and that images of people smoking will not be used in future advertising materials.

Finding that the advertisement did depict material contrary to prevailing community standards on health and safety, the Board determined that the advertisement breached Section 2.6 of the Code and upheld the complaint.