



## **CASE REPORT**

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| 1. Complaint reference number | 36/10                                    |
| 2. Advertiser                 | Epoch Australia                          |
| 3. Product                    | Professional Services                    |
| 4. Type of advertisement      | Print                                    |
| 5. Nature of complaint        | Language – use of language – section 2.5 |
| 6. Date of determination      | Wednesday, 10 February 2010              |
| 7. DETERMINATION              | Dismissed                                |

## **DESCRIPTION OF THE ADVERTISEMENT**

This print advertisement in a postcard format, has a logo "GYST" and the description 'get your shit together', explained as an idiom for becoming organized and effective.

## **THE COMPLAINT**

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

*Language. I have a 5 year old & an 8 year old. They usually get the mail & check out/read everything. On this occasion I emptied the mailbox & found this advertisement. My family do not use this language & I find it offensive to see it in print, especially where young children can easily access it. The word is also used multiple times.*

*Using this language is ok after a particular time on TV etc...but my kids (5-12yrs) collect the mail, as i'm sure occurs in many other families. Do they really need to be exposed to this?*

## **THE ADVERTISER'S RESPONSE**

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

*Get Your Shit Together is a leadership and self development training program targeting the 16-30 year olds within their professional and personal life.*

*When selecting the name of the training program we wanted a name that would encompass what was being taught and would appeal to this generation. We felt in this case a 'a typical saying' which was part of the Australian vernacular would work well.*

*We also checked the dictionary to ensure the meaning of what we wanted to say was also pertinent to the material:*

*Cambridge Dictionary: have/get your shit together "to be or become effective, organized and skillful"*

*You will see this definition utilised in our flyer:*

*Having selected a name GYST – Get Your Shit Together we then proceeded to trademark both elements of our name and logo – GYST and Get Your Shit Together, which has been approved. In order to have this trademark passed the Trade Mark Examiner had to be satisfied that the name would not be scandalous nor offend the ordinary person – Please see Appendix A, correspondence between our lawyer and the examiner.*

*We feel that under 2.5 of the AANA Code of Ethics we used appropriate language which has neither been strong nor obscene connotations.*

*Our flyer was produced within context of the dictionary meaning of this saying. We also feel the trademark would not have been approved if our logo and name was contradictory to the law or detrimental to the public. It is obvious that the purpose of trade marking is to create a brand. In order for that brand to be recognized you will utilise both the name and logo for advertising and marketing purposes. The use of this name in advertising and marketing material would have been given due consideration at the time of the trade marks approval.*

*With respect to our flyer and letterbox drop we duly note the concern for children. However in both cases no children viewed the word 'shit'. In fact these children and parents would have greater exposure via other means to the word 'shit' than our flyer. Take for example Prime Minister Kevin Rudd's use of the word "shit storm" to describe the political consequences of job cuts. This was considered an Australian 'ockerism' (his ratings increased after this incident).*

*This was shown prime time for days along with all newspaper and radio coverage. These mediums utilized this saying from our PM to advertise and market the ratings for their brands. The name of our training program is no less than this an Australian ockerism which we believe is not considered offensive to the majority of the public.*

*Upon receipt of our trade mark approval we began to advertise our training program where upon 13,750 flyers were dropped with 2 complaints. We feel that as unfortunate as these complaints are (as the purpose is not to offend) we feel this statistic falls well within reasonable limits of advertising and marketing and demonstrates that the community took the name to be within context of what we were saying within the remaining copy of the flyer.*

*Our company Epoch Australia has been operating for over 12 years and is known within the corporate sector as creating and training in innovative programs that are appealing to its participants. We have created this program based on a year of research with our clients, with both the name and target audience being in context with the material being delivered to improve the corporate leadership landscape in 16 – 30 year olds.*

*I look forward to the Boards interpretation of Section 2, 2.5 of the AANA Code of Ethics with respect to our trade marked name and logo.*

## **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' concern that the print advertisement (which is a self awareness course) is inappropriate because of the language used and the fact that it was sent via the mail and that the audience could not be restricted.

The Board noted the advertiser's response and viewed the print advertisement.

The Board then considered whether the imagery and language was in breach of section 2.5 of the Code.

Section 2.5 of the Code states: "Advertising or marketing communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided".

The Board noted the concern about the use of swear language and the medium in which it was broadcast. The Board viewed the advertisement and noted that there was reference to the word 'shit' in the logo and caption. The Board noted that the phrase 'get your shit together' is a common phrase now used in Australia. The Board considered that it was used in a relevant context of a self-development course. The Board recognised that some members of the community would find the phrase inappropriate, but considered that the advertisement contained language that most members of the community would not consider strong or obscene and not inappropriate for the service being advertised.

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