



CASE REPORT

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| 1. Complaint reference number | 380/09 |
| 2. Advertiser | Epiclinic |
| 3. Product | Health Products |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Discrimination or vilification Gender - section 2.1 |
| 6. Date of determination | Wednesday, 26 August 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television commercial shows people driving and walking around outside in the public sphere with bags on their head. A number of women are depicted as well as a number of people not identifiable as men or women. A man is depicted leaving the clinic. Voice overs states 'Are you hiding your wrinkles inside a bagEpiclinic lose the bag

THE COMPLAINT

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

This is very very degrading to women. this ad does nothing but humiliate and degrade women by having paper bags on their heads.

Many women cannot afford to have anything like this done and do have a complex about how they appear, and to have an ad like this on with women wearing paper bags is disgusting. Also at the end of the ad there is a comment which is awful and that is 'lose the bag'.

THE ADVERTISER'S RESPONSE

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

It is our belief that there is no discrimination towards women, nor is any discrimination intended towards women, in the advertisement. There are several male subjects in the advertisement, who also wear bags. (Driver in car at left side of main character in car scene, driver in car behind main character, six males in coffee shop scene).

The theme of the advertisement was derived from several clients who commented to our staff that the ageing process sometimes makes them feel, that no matter what they do to enhance facial appearance, nothing seems to work to their satisfaction. Clients consistently 'joke' that they feel so frustrated by this that (metaphorically) they feel they should cover their face with 'a paper bag'. This is both from male and female subjects.

The advertisement was designed in an effort to empathise with potential clients that feel this way and to make the declaration that we understand the importance of feeling attractive to improve confidence and self-esteem.

Prior to broadcasting of the advertisement we obtained advice from a representative of the TV Network who sought, on our behalf, approval for the advertisement. In our discussions with the representative we were advised:

1 The content of free-to-air commercial television is regulated under the Commercial Television Industry Code of Practice which has been developed by Free TV Australia and registered with the

Australian Communications and Media Authority (ACMA).

2 The Code covers the matters prescribed in section 123 of the Broadcasting Services Act and other matters relating to program content that are of concern to the community including:

- program classifications;*
- accuracy, fairness and respect for privacy in news and current affairs;*
- advertising time on television; and*
- placement of commercials and program promotions and complaints handling.*

3 The Code operates alongside the ACMA Standards which regulate children's programs and the Australian content of programs and advertisements.

4 The Code attempts to balance and provide for the various and often conflicting interests of our diverse society in the delivery of commercial television services.

5 It is the result of extensive consultation with Government advisory bodies, community interest groups and the public generally. The Code is reviewed every 3 years.

6 The 30 sec & 15 sec TV commercials of Epiclinic were approved by CAD and have the following CAD numbers;

- o 30 sec CAD number is GQOM0MDA*
- o 15 sec CAD number is GQOLZMDA*

So far as is known, the complaint is the first received. The campaign has been running successfully for approximately three months and all responders, with one exception, have stated empathic recognition with comments such as. "When I saw your ad, I said that's just how I feel sometimes...". The majority of responders have stated they actually enjoyed the entertainment value of the advertisement stating it was 'clever' and 'funny'. We have had numerous congratulatory comments from non-clients about the advertisement.

We have also reviewed the AANA Code of Ethics and we are firmly of the view that the TV advertisements do not contravene the provisions of the Code, particularly Section 2 which you have directed us to.

One of the 'silent' objectives of the advertisement was to create social awareness that the advertised services are not affordable to some people. We believe that the Commonwealth Government through the Health Insurance Commission should recognise the plight of such people and would welcome and support any complaint of this nature to those law makers responsible for denying the provision of medical rebates to such disadvantaged people. On a daily basis our clients tell us of increased opportunity in the workplace and in relationships that our work provides for them. It is our contention that Private Health Insurers and the HIC should recognise the community advantages that appearance confers upon social and professional performance by offering medical rebates to those that need it.

Thank you for the opportunity to respond to the complaint.

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 that the advertisement is degrading to women.

The Board considered whether the advertisement was in breach of section 2.1 of the Code.

Section 2.1 of the code states:

"Advertisements shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief."

The Board noted the advertiser's response that the advertisement included several males wearing bags in the advertisement and was a depiction of those who had commented about the aging process and how it made some of them feel.

The Board considered that the image of people wearing bags on their heads was a visual depiction of comments that people occasionally make when they are commenting on how they feel or look on a particular day. The Board noted that the wearing of a paper bag was not solely directed towards women and did not discriminate against women. The Board considered that, regardless of what a consumer may consider of the product or the concept that people might like to have wrinkle minimising treatment, this was a humorous and over the top depiction of conveying the message that there are days when we would prefer to look a little brighter and less wrinkled. The Board considered that this advertisement did not discriminate against or vilify women and did not breach section 2.1 of the Code.

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