



CASE REPORT

1. Complaint reference number	392/08
2. Advertiser	Advanced Medical Institute
3. Product	Professional services
4. Type of advertisement	Outdoor
5. Nature of complaint	Portrayal of sex/sexuality/nudity – section 2.3
6. Date of determination	Wednesday, 8 October 2008
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This outdoor advertisement asks "Want longer lasting censored?". The first letter of the word covered by "censored" (the letter "S") is partially visible.

THE COMPLAINT

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

The use of the word 'censored' with the 's' from 'sex' visible leads the viewer to conjure up the word 'sex' consciously or subliminally. Furthermore the choice of altering word - censored - is a clear swipe at the authority of the ASB. It's time for the ASB to stand up for itself and the Australian public and act NOW. Otherwise accept that the current self-regulating AANA Code of Ethics scheme is inadequate and recommend that it should be replaced with mandatory regulations.

THE ADVERTISER'S RESPONSE

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

Section 2.5 of the Code prohibits strong or obscene language. The billboard wording does not contain any sexual terms or obscenities. We accordingly submit that the billboard is clearly not in breach of section 2.5 of the Code.

Section 2.3 of the Code requires that sex, sexuality and nudity be treated sensitively.

There has been significant commentary on radio and elsewhere by members of the public which indicates that the public consider that the initial billboards were in line with community standards and were not of concern and/or that the amended billboards are in line with community standards. Similarly, while some people in the community may disagree with the use of the word 'sex' in the billboard, a greater section of the community oppose the censorship of the advertising.

In a sample of commentary from the public, a clear majority of community members are alarmed at the censoring of ads. A significant portion who oppose the ads do so merely because they are annoying or attention grabbing.

While our client disagrees with the decision made by the Board in decision 278/08, our client has removed the word 'sex' from billboards. Given that the billboards no longer contain any sexual reference, we believe that the billboards treat sex, sexuality and nudity sensitively.

In terms of the word 'censored' being suggestive of sexual terms, we consider the approach is consistent with the approach in newsagents of having sealed sections in magazines which are

unable to be opened.

Section 2.4 - advertising and marketing to children, The billboards do not promote a product or service to children. In any event, the billboards do not contain any sexual terms and we submit that they do not breach the AANA Code for Advertising and Marketing Communications to Children.

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 the application of Section 2.3, relating to sex, sexuality and nudity.

The Board noted the complainants’ concerns about the advertiser’s approach to the Board’s previous determination by modifying its advertisement using the word “censored” on its billboards, and the message of the advertisement behind this wording change.

The Board agreed that the “S” that was visible beneath the word “censored” could stand for a number of words beginning with “S”. The Board considered that children viewing the advertisement would be more likely to ignore it and less likely to understand the message as relating to sex, while adults would understand the reference. Therefore, the Board considered the modified advertisement treated an implied reference to sex sensitively to the relevant audience and this version of the advertisement was not contrary to prevailing community standards. The Board agreed that the modified advertisement was not in breach of Section 2.3 and considered that there were no grounds on which this version breached the Code.

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