



CASE REPORT

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| 1. Complaint reference number | 411/09 |
| 2. Advertiser | Ian Jones Insurance Brokers |
| 3. Product | Insurance |
| 4. Type of advertisement | Outdoor |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3
Language – use of language – section 2.5 |
| 6. Date of determination | Wednesday, 9 September 2009 |
| 7. DETERMINATION | Upheld – discontinued or modified |

DESCRIPTION OF THE ADVERTISEMENT

Print advertisement of a naked man taking a leap in the air (on the beach) with his gluteal cleft exposed.

THE COMPLAINT

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

Large, in your face advertisement at busy unavoidable Newcastle intersection, using language (by highlight) still unacceptable in many homes, An Americanism we don't need forced upon us.especially illustrated in this manner.

THE ADVERTISER'S RESPONSE

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

My comment in relation to this advert and the associated complaint are – whilst I respect the opinion of the complainant, I don't agree that the advert is offensive. We only need to review the various forms of media to see many examples of images such as underwear which could be deemed offensive to many. Our image is slightly blurred and the text is designed to create a memory and reaction for the consumer to associate this statement with the services we provide – to insure and financially protect the assets of both business and individuals. I would hardly believe that the term 'ass' would be 'unacceptable in many homes' and the term in reference to Americanism being forced upon us, well – an Ass is a long-eared, usually ash-coloured mammal, related to the horse, serving as a slow, patient, sure-footed beast of burden; donkey.

The fact that it is located on one of Newcastle busiest intersections (and has been done so for some 4 months) is relevant if this is the only complaint made for this billboard because at least 80,000 cars per week pass through this intersection.

This billboard has been taken down at the end of July as I am co sharing the site with another Newcastle Business who will use the site for their business for 4 months and mine will go back up around beginning of December.

As you mentioned this Billboard has been the subject of complaint around 5 years ago with no action required by yourselves and I trust that your judgement will reflect my thoughts above.

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 complainant's concern about the use of the term 'ass' in the advertisement.

The Board noted that although the first three letters of the word 'assets' are highlighted, the word used on the billboard is 'assets'. The Board considered that the highlighting of the term 'ass' was meant to create an association with the man's bottom which is exposed in the advertisement. The Board considered that the reference to 'ass' was not language that would be considered strong or obscene and that the advertisement did not breach section 2.5 on the basis of language.

The Board also noted the image of a naked man. The Board noted that the image was quite close up and that the man's bottom and gluteal cleft were clearly visible. Although the man's genitals were not visible (as a result of altering the image presumably) the Board considered that the large image of the man jumping and exposing his rear end was a depiction of nudity that went beyond that which was usual to see, for example, at a beach. The Board noted that section 2.3 of the Code requires that sex, sexuality and nudity are treated with sensitivity to the relevant audience. The Board noted that the advertisement is an outdoor billboard and that as such it is subject to viewing by a diverse audience. The Board considered that the advertisement's image of the man's bottom in a revealing manner did not treat nudity with sensitivity to the relevant audience. The Board determined that the advertisement breached section 2.3 of the Code.

Finding that the advertisement breached the Code, the Board upheld the complaint.

ADVERTISER RESPONSE TO DETERMINATION

The Advertiser noted that the advertisement had already been removed at the time that the complaint was received and indicated that the Billboard would not be used again. The Advertiser also responded as follows to the Board's decision:

Firstly I would like to say that I do understand the purpose of what the Bureau sets out to achieve and given the amount of misleading or offensive advertising then I am sure you have good reason to have certain adverts withdrawn. What concerns me with reference to my particular billboard advert (of which there is only one which is displayed for approximately only 6 months of the year) is the sudden turn around of the boards standards and principals in relation to the so called offensiveness. I have been using this image and wording for some 10 years now and it has been some 5 years since the last public complaint (with only 3 prior to that), from which the Bureau deemed the complaints unsubstantiated and allowed the continuation of my advertising.

I find it incredulous to think that 1 complaint from 1 person in all this time can give the power to have my advertising of 10 years (and the principal identification of our firm when clients identify who we are) completely shot down. The single complaint does not seem at all fair and certainly seems inconsistent with the bureaus past thought process. I have this image and wording featured on 2 buildings occupied by myself in Newcastle & Raymond Terrace and to date have never had any complaint made directly to either office and both are in high pedestrian traffic areas. I also have it in the yellow pages. The Billboard in question has an estimated 80000 cars per week pass it and it seems to maintain a presence given the amount of positive/humorous feedback from both existing and new clients. New clients recognize our brand as a result of this advert and this is commented on by such clients as catchy and worthy. We have even had people call our office comment on the advert and tell us they will call when their insurance falls due.

Is it the case that only 1 person needs to take offence to such an advert for the Bureau to determine the future advertising process for a company – if so then I find the process one sided and bias and the whole process would seem ridiculous. I certainly don't mean to offend the board by this comment however I do ask that you really do consider what my concerns are – 1 person in the last 5 years who lives 25 minutes out of the area where this advert is, out of all the people who pass this site 24/7 and 365 days a year. I have been in the business of Insurance Broking for 23 years and my firm, my staff of 9 and myself have very good reputation in a very close knit town so the last thing I wish to do is to offend my own client market, but 1 person – this would be the only person in Newcastle I would wish not to have as a client.

I appeal to your consideration.