



CASE REPORT

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| 1. Complaint reference number | 45/10 |
| 2. Advertiser | Nightingale Funerals (Women) |
| 3. Product | Other |
| 4. Type of advertisement | Radio |
| 5. Nature of complaint | Discrimination or vilification Gender - section 2.1 |
| 6. Date of determination | Wednesday, 10 February 2010 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This radio advertisement is for the promotion of female only assisted funerals at half the price of the corporates. The voiceover says: "some things only a woman can get right".

THE COMPLAINT

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

The ad implies that the service on offer cannot be provided to an adequate standard by a male. This is clearly not the case given the company in question is linked to Kingston Funerals - a company run by a male. In this day and age when ads that even come close to offending women are modified or removed from the air, surely the same standard should apply when an ad tries to highlight the inadequacies of males.

THE ADVERTISER'S RESPONSE

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

I refer to your email dated 28 January 2010, regarding a complaint in relation to an advertisement for Nightingale Funerals ("the advertisement") aired on 17 December 2009 on Radio 3AW.

I note that there was no advertising agency involved in the production of this advertisement.

While I appreciate the concerns of the complainant, in my view the Nightingale advertisement does not breach clause 2.1 of the AANA Advertiser Code of Ethics ("the Code") or any other section of the Code.

As you are aware, clause 2.1 of the Code states that advertising must not portray people or depict material in a way which "discriminates against or vilifies a person...on account of...sex." In line with the ordinary interpretation of these words, this provision sets quite a high threshold for breach.

According to the Macquarie Dictionary, the word "vilify" means to "speak evil of; defame; traduce." "Traduce" means "to speak evil or maliciously and falsely of; slander; calumniate; or malign." This definition sets a high threshold for the likely effect of prohibited behaviour, and indicates that advertisements must induce a particularly strong reaction of contempt or ridicule against a particular sex in order to breach the Code.

I do not consider the advertisement complained of is reasonably capable of speaking evil of or maliciously attacking males, especially as the tone of the advertisement is gentle and thoughtful. Comments such as, "there are some things only a woman can get right, especially on personal

details or a female point of view,” do not vilify males, but illustrate there are differences in the professional service offered by women at funeral homes that are attractive to some clients. For example, “a female point of view” is by its very definition, only capable of being achieved by a female.

Further, I do not consider the advertisement discriminates against males in breach of the Code. The term “discriminate” is usually used to describe a situation in which a person or group of people are treated unfairly on the basis of perceived difference about that person or group of people.

Contrary to the complainant’s view, the advertisement does not imply that the service on offer cannot be provided to an adequate standard by a male. As the complainant correctly notes, Nightingale Funerals is a subsidiary of Kingston Funerals – a company headed by a male. Rather than discriminating against males, the advertisement suggests that although males “do a great job” there are certain aspects of funeral services that, for some clients, are better provided for by a female. For example, some women may prefer particular parts of a funeral service to be carried out by a female, such as the intimate preparation and dressing of a naked female body, or dealing with a woman’s grief from a female perspective.

In my twenty years as a funeral director, I have learnt that females have a different manner when dealing with grieving families. The glowing oral and written accolades received by our female staff are testament to this. This is a common experience at many companies in the funeral service industry, and our competitors advertise funerals from a woman’s perspective also. In any case, in the advertisement the speaker qualifies the statement that “there are some things only a woman can get right” (such as a female point of view) by stating that, “the boys at Kingston do a great job.”

In the advertisement, Nightingale Funerals chose to emphasise the fact that the service is run by women because it is its distinctive feature. It is a statement of difference, suggesting that women provide alternative qualities, not that men are inadequate in the provision of funeral services.

For the reasons outlined above, I respectfully submit that the advertisement complained of does not breach clause 2.1 of the AANA Code of Ethics.

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 was discriminatory towards men and suggests that men are inadequate at providing funeral services.

The Board noted the advertiser's response and listened to the ad.

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

"Advertising or marketing communications 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, gender, age, sexual preference, religion, disability, or political belief."

The Board noted that the radio advertisement is seeking to differentiate the service provided by offering female only funerals. The Board was of the opinion that the statement was an opinion oriented statement and certainly not a statement of fact. The Board agreed that some people in the community would consider that this advertisement was demeaning towards those men who work in a compassionate service industry. However, the Board agreed that most people in the community would appreciate that it was not attacking the capacity of men to provide compassionate services and that it was merely a way of differentiating its services.

The Board determined that the advertisement was not in breach of section 2.6 of the Code.

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