



CASE REPORT

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| 1. Complaint reference number | 464/09 |
| 2. Advertiser | BConfidential |
| 3. Product | Sex Industry |
| 4. Type of advertisement | Outdoor |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 14 October 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

Outdoor advertisement with the picture of a woman which says: "tell your wife that you will be home late". B Confidential, lunch, dinner, poker nights, live music, gentlemen's club.

THE COMPLAINT

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

A black billboard with writing in pink "Tell your wife you'll be late" with a pink lipstick kiss below.

Promotes marital dishonesty as an acceptable lifestyle choice. I had trouble explaining this billboard to my 6-year old son.

The Australian Bureau of Statistics shows figures of divorce reaching 47,936 in Australia in 2008 alone. Not only does this advertisement promote the degradation of women and their 'use' for 'gentlemen's' entertainment, but also the degradation of marriage in our society. This advertisement explicitly advocates a man's supposed 'right' to disregard his wife (and family), by entertaining himself with other women. Vows made in the eyes of the Commonwealth, which our country claims to place on a pedestal, suddenly appear null and void. Advertisements like this are being continually allowed into our daily lives, promoting the very thing that tears families apart, leaving behind a fatherless generation of dysfunctional adolescents which grow to do the same. Each and every day is a battle for most families, to keep their marriage alive, to keep their children on track, and keep their family together. Why display something that stands against everything these families work hard to build? It is appalling and disgusting if this sign remains where it is, in view of men, women and children alike, who must pass it just to get to work or school! All this sign does, is fan the flame of an already rampant problem in our society, which breaks hearts and ruins lives.

I object to the content of this advertising as I believe it undermines marriage and social values of honesty, trust and respect within marriage and is out of step with prevailing community standards. Furthermore, I object to the location of the advertisement, which is within a few hundred metres of a soccer club and at least one church (35 Thompson St, Bowen Hills). Thus it is likely to be seen by children of all ages including younger teenagers, who are likely to well understand what is being advertised. I also feel strongly that this sort of message erodes social values and shifts the cultural norms to accepting something that is inherently degrading of women, prostitution.

THE ADVERTISER'S RESPONSE

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

Our clients respectfully submit that the advertisement in question does not contravene the AANA

Advertiser Code of Ethics.

Complaint received 14 September 2009

The complaint does not disclose any breach of the AANA Advertiser Code of Ethics (“the Code”). With respect to the complainant, the complaint seems to be based on a very narrow view of appropriate relationships between men and women in Australian society that does not accurately reflect the prevailing community standards. The complaint makes the assumption that attendance at a gentleman’s club is responsible for the “degradation of women” and their “use” for gentleman’s entertainment. The advertisement clearly states that activities undertaken at the club include lunch, dinner, poker nights, live music and gentleman’s club. None of these activities can be considered objectionable in modern society and the factual assertions made by the complainant as outlined above, are simply incorrect. The complaint seems to be based on prejudiced and erroneous belief of what activities occur at gentleman’s clubs.

The complainant reveals their true motivation through the tirade delivered in relation to the alleged degradation of the institution of marriage. Whilst the complainant is well entitled to their personal view on such a matter, it is improper to draw conclusion that the matters railed against are caused by the activities disclosed on our client’s billboard. Furthermore, there is no betrayal of sex, sexuality or nudity in the billboard. The artwork only reveals the face, neck and upper torso of a woman who may or may not be otherwise fully clad.

Complaint received on 14 September 2009

The submissions in relation to the first complaint may be reiterated in relation to the second as far as they relate to the complainant’s beliefs about “marriage and social values of honesty, trust and respect within marriage”. In relation to the objection to the location, the complainant has failed to note that the advertisement, entirely coincidentally, is located within meters of two licenced venues of prostitution, as well as being in the general vicinity of a church and soccer ground. Without a doubt, the advertisement may be seen by children and young teenagers. The advertisement contains no overt reference to sex or

sexuality and cannot be considered offensive to children or young adults.

Finally, this complainant’s objection is clearly based on the presumption that the advertisement refers to prostitution. Our clients hold an adult entertainment licence. Their business premises is in no way associated with nor condones prostitution. The complainant is factually mistaken and as a result the complaint may be distinguished.

General submissions in relation to both complaints

The advertisement does not discriminate against nor vilify a person or section of the community on the basis of the proscribed grounds. The advertisement is tasteful and respectful of women. In fact each of the complaints discriminates against and vilifies members of the community who pursue relationships outside of the institution of formal religious marriage.

The advertisement treats sex, sexuality and nudity with sensitivity to the relevant audience. The only sexuality communicated by the sign is implied by innuendo alone. At the highest level, the billboard could be considered to be risqué, and not nearly as graphic in its depiction of nudity as common underwear advertisements, nor as explicit in its suggestiveness as other advertisements in the community. In particular, the advertisement only contains the mere suggestion of sex, as opposed to other advertisements for sexual medications and for adult products.

The slogan “tell your wife you’ll be late” is not disrespectful to married women, nor does it translate as infidelity within marriage. The worst possible implication is a behaviour which could be considered “naughty”, as opposed to behaviour which the prevailing community standard would consider to be unacceptable, such as actual sexual infidelity.

Conclusion

It is submitted that the complaints made be dismissed as:

- 1. they are based on factual assumptions which are incorrect;*
- 2. the complainants draw conclusions about the impact of gentleman’s clubs in society which are not supported by evidence nor reflective of the prevailing community standard;*
- 3. the advertisement does not breach the AANA Code of Ethics;*
- 4. the complaints are influenced by their particular view of society and social institutions to the exclusion of all other persons in the community who hold different views.*

We ask that you consider our client’s submissions as above.

In relation to the new complaints received, we reiterate our general submissions forwarded to the

Board previously (above).

In relation to these specific Complaints, we would like to point out that both Complaints are based on an erroneous interpretation of our client's billboard. In particular, the Complaints allege that the billboard promotes "marital dishonesty" and "lying and cheating". There is nothing in the advertisement that allows such inferences to be drawn. The Complainants have drawn conclusions which are not supported in the actual wording of the advertisement.

The wording of the billboard, "Tell Your Wife You'll Be Home Late" means what it says. It does not connote either deception, nor does the implication that a married man spends time at a gentlemen's club connote infidelity.

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 erodes social values by advocating a man's right to disregard his wife (and family) by entertaining himself through infidelity and the placement of the advertisement would be seen by children.

The Board noted that the service advertised is a club oriented to men and that such establishments are allowed to be advertised provided that they treat sex, sexuality and nudity with sensitivity to the relevant audience in accordance with Section 2.3 of the Code. The Board noted that the advertisement is a billboard which is accessible to a broad audience.

The Board agreed that the image which depicts a fully-clothed woman and the statement "tell her you will be late" could be interpreted as suggesting infidelity which would constitute for most couple's a significant breach of trust and that many people in the community would be offended by the suggestion.

However the Board noted that the billboard is not explicitly referring to sex or sexual related behaviour and that the image of the woman is not inappropriate.

The Board noted that the billboard is available for viewing by a broad audience but considered that, although the text could be interpreted as suggesting infidelity it did not do so explicitly, neither the text nor the images were inappropriate to the audience. However, in this instance, the Board agreed that the advertisement did treat sex, sexuality and nudity with sufficient sensitivity and therefore was not in breach of section 2.3 of the Code.

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