



CASE REPORT

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| 1. Complaint reference number | 545/09 |
| 2. Advertiser | Telstra Sensis (Yellow Pages) |
| 3. Product | Telecommunications |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 25 November 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts two men in the back yard erecting a water fountain. The fountain has a cherub in the centre. They are just finishing off the installation and connect the water, when the water pressure is so great that the water shoots out at one of the men and nearly knocks him over. The scene then cuts to a next door neighbour (an elderly lady is seen to be holding the cherub's penis in her hands and looking at it up close (as if unsure what it is). The force of the water has forced the penis to fly off the cherub and into the neighbours house, breaking a window.

THE COMPLAINT

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

It reeks of pedophilia, it has very questionable sexual content, whether it be a statue or not. Both men in the ad look queer and seedy and I'm sure the naked boy could have been a bird or animal or something other than a naked little boy holding his penis.

The other thing is it's totally ridiculous to try to stop the flow of high pressure water with your hands, that whole part of the ad has distinct child sexual connotations where the statue owner is giving the impression of performing oral sex on the statue.

The ad was a "yellow pages" ad showing a statue of a naked child holding his private parts. It was a part of a fountain which when turned on showed the child urinating as part of the fountain. There was a close up camera shots both front and back. The ad was extremely graphic.

THIS AD IS CLEARLY PORNOGRAPHIC DEPICTING IMAGES OF A NAKED CHILD WHICH WAS THEN ANIMATED! IT IS TOTALLY UNACCEPTABLE, DEEPLY OFFENSIVE AND SEXIST.

If you do not agree with this then perhaps you could ask yourself the same question if it had been a statue of a little girl holding her vagina, then urinating graphically plus camera shots of both front and back. Further, this would also make the advertisement SEXIST because I am sure that if this was a depiction/statue of a very young girl then there would be massive attention paid to getting it of television.

Would you please stop this child pornography immediately.

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 emails dated 9 and 13 November enclosing complaints received in relation to Sensis' television commercial for the Yellow Pages® directory ("Commercial"). In particular,

Sensis is aware that some viewers object to the commercial on the basis that that it allegedly raises concerns under section 2 of the AANA Code of Ethics by portraying content of a sexual nature. Sensis strongly denies that the Commercial raises concerns under section 2 of the AANA Advertiser Code of Ethics or the AANA Code for Advertising and Marketing Communications for Children.

Background

The Commercial continues the Yellow Pages® advertising tradition of showing humour in everyday situations and features a DIY Aussie bloke doing a backyard makeover that goes awry when the fountain centerpiece of his new garden malfunctions. It is through this comic portrayal that the Commercial demonstrates the variety of ways consumers can access Yellow Pages® content.

Sensis' Reasoning

Sensis understands that basis of viewer objection to the Commercial is the depiction of water gushing from the water feature. In particular, concern has been raised that the imagery of the statue, which forms the centre piece of the water feature, is sexist and pornographic. Sensis does not consider that the Commercial fails to comply with the AANA Code of Ethics. To the contrary, Sensis considers that the Commercial is a humorous depiction of a failed garden improvement and demonstrates the utility of Yellow Pages products.

Under section 67A of the Crimes Act 1958 (Vic) child pornography means a film, photograph, publication or computer game that describes or depicts a person who is, or appears to be, a minor engaging in sexual activity or depicted in an indecent sexual manner or context. Importantly, Sensis does not consider that the ad in any way implies sexual activity. Clearly, the context of the Commercial is a light hearted look at home improvement and features a style of water feature that can readily be acquired from garden supply centres. In fact, the concept for the water feature is based on a famous Brussels landmark "Manneken Pis".

You should also be aware that Commercials Advice Pty Ltd has classified the advertisement as W. This rating means that although the television commercial is not to be shown during programs aimed at children, the content of the Commercial is considered to be very mild.

While Sensis does not consider that the advertisement raises issues under section 2 of the AANA Advertiser Code of Ethics, Sensis does value feedback on the way it advertises products and services to ensure that marketing is sensitive to the public needs.

We trust this response addresses your concerns.

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 offensive because it depicted a naked male statute with his genitals, urinating.

The Board noted the advertiser's response and viewed the advertisement.

The Board considered whether the advertisement was in breach of section 2.3 of the Code. Section 2.3 of the Code states:

"Advertising or marketing communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and where appropriate, the relevant programme time zone".

The Board noted the complainant's concerns that the advertisement depicted a naked male and that as such it was inappropriate for television. However, the Board noted upon viewing the advertisement that the figure which is the subject of the advertisement, was in fact a water feature with a male cherub in the centre.

The Board considered that the advertisement did emphasise the genitalia of the cherub, however, it

was done so in a humorous manner and that the advertisement was not sexualised or offensive. The Board agreed that the advertisement was funny and was intended to capture the attention of the audience and most people in the community would not be offended by the statue (as similar statues are erected in public places in Australia) and they would relate to the humour. The Board determined that the advertisement did not breach section 2.3 of the Code.

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