



CASE REPORT

- | | |
|-------------------------------|---|
| 1. Complaint reference number | 547/09 |
| 2. Advertiser | Beiersdorf Aust Ltd |
| 3. Product | Toiletries |
| 4. Type of advertisement | Print |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 9 December 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This print advertisement depicts a woman and man lying together in bed, they have no clothes on and are seen with their eyes closed and in an intimate embrace. The caption says ""feel touched by irresistible smoothness."

THE COMPLAINT

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

NIVEA – Irresistibly smooth body lotion

Re: The company – NIVEA – Beiersdorf

Re: Advertisement – Sunday Telegraph, pages 3&4 – Magazine 11 October

I would like to draw your attention to the above advertisement which I found very offensive and totally unnecessary.

Please find enclosed a partial photocopy, since it is a very large advertisement, taking up two pages and depicting two naked adults. I find this offensive to be placed into a Sunday magazine meant for family reading.

Please can you look into the matter and have this ad removed. Thanking you.

THE ADVERTISER'S RESPONSE

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

Our comments

(a) The product advertised, NIVEA Irresistibly Smooth Body Lotion, as its name suggests, is intended to be applied all over the body, which incorporate all skin areas on the whole body. A key benefit of the product is its ability to effect smooth and beautiful skin. The product is predominantly used by women and is not particularly intended for children. The theme, visuals or language used in the print advertisement are simply not directed to children in any way. Our contention therefore is that this product advertisement is not in any sense considered to be 'Advertising to Children' within the definition of the AANA Code for Advertising & Marketing Communications to Children.

(b) Additionally, the print advertisement was placed in the Sunday Magazine insert within the Sunday Telegraph. The Sunday Magazine can hardly be considered to be the reading material of

choice for children 14 years old or younger, assuming that the Sunday presses appeal to this particular demographic in the first place. Even then, children of 14 years old or younger would arguably be more likely drawn to the Sunday Telegraph's specific insert for children, which includes colourful comics and the like.

(c) The nudity that is depicted in the print advertisement is restrained to the extent that it does not include any sexual imagery. It conveys sensuality of smooth and beautiful skin as a key benefit of our product's use, in a publication accessed by the relevant and intended audience. It is our position that the restrained nature of the nudity depicted is not at odds with Prevailing Community Standards as defined by the AANA Code of Ethics.

(d) While we regret the complainant's reaction to the print advertisement, we do not accept that it is "very offensive". We especially respectfully dismiss any allegation of its contravention of the AANA Code for Advertising & Marketing Communications to Children and hold the view that our advertisement remains consistent with Prevailing Community Standards for other similar product advertisements of this nature. This view is reinforced by this being the one sole complaint of this print advertisement known to us to date.

We trust our response may be accepted and considered in the ASB's expressed review procedures for complaints.

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 that the advertisement was very offensive and unnecessary and unsuitable for placement in a Sunday magazine meant for family reading because it depicted a naked man and lady in a seductive manner.

The Board noted the advertiser's response that the nudity depicted in the print advertisement is restrained to the extent that it does not include any sexual imagery. The Board viewed the advertisement and noted that it had been placed in the Sunday Magazine insert within the Sunday Telegraph.

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".

The Board considered that the woman and man were portrayed in a mildly sexualised manner and that although they were not wearing clothes, there were no visible genitals or overt sexual activity. The Board noted that the intention of the advertiser was to appeal to a sophisticated market and that the advertisement appears in a newspaper which is not directed to children.

The Board considered that the advertisement treated sex, sexuality and nudity with sensitivity and 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.