



CASE REPORT

1. Complaint reference number	559/09
2. Advertiser	Genesis Fitness (photocopier)
3. Product	Leisure & Sport
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 (mail) advertisement depicts a man sitting on a photocopier with his underwear down and he is laughing. He appears to be photocopying his naked bottom.

THE COMPLAINT

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

Nudity - I don't think it is appropriate to send out advertising postcards like this to household were children can see it. You can see a naked hairy bottom from the side and I found it offensive.

THE ADVERTISER'S RESPONSE

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

Fitness clubs are for ages or 16 and over, therefore when doing any fitness marketing it is never intended for children under 16.

I'm sure you are more than aware of the very important aspect of marketing is making sure we are advertising to our Target Market. After extensive research we have found for Genesis Fitness this is 25-39, therefore we market to areas and use images that we feel this age group will positively respond to.

Genesis is the 'Fitness Club For Everybody' and for that we have a very experienced Creative Team and a Marketing Focus Group that makes sure when putting our monthly campaigns together we answer no to following questions and if we answer yes to any of these we do not go to market;

- Is this artwork discriminating to ones religion?*
- Is this artwork racist?*
- Does this artwork promote illegal activity?*
- Will this artwork discriminate anyone physically or mentally?*
- Will this artwork discriminate the female or male gender?*
- Does this artwork display male of female genitals?*
- Will this artwork encourage under age activity such as drinking or smoking?*

The November artwork did go through this process like every other artwork we have been doing for the last 13 years and with all these questions answering no, we felt as if this had our approval to go to market with.

As you can see from the attached artwork you cannot actually even see his buttock you can only see his thigh. We actually had another image we were going to go to market with for this campaign, however you could actually see a little more of a buttock region so we cancelled that image and sourced a less revealing image which is the one being used.

We do only intended to market to age bracket of 25-39; however I do understand that it can still possible be seen by a younger generation we are unable to control this once it is delivered to the household. The only way we can avoid this is when we do not delivery to any household that has 'No Junk Mail' sign on their letterbox so our postcards / flyer will never be seen by them.

We would like you to know that we never have or never will go to marketing with the intension of offending anyone and we are very sorry that we have with this particular person. However please know that we do go through a very lengthy process to make sure we do not compromise any of our standards or questions in our criteria which are supplied above.

Thank you for giving Genesis Fitness the opportunity to share with you our marketing standards and hope that you too can see why we felt this particular artwork was ok to go to market with.

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 not suitable for children. 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 program time zone.*"

The Board noted that this advertisement depicted mild nudity and was not over the top or likely to offend most members of the community.

The Board considered that the depiction of the male sitting on the photocopier was intended to be funny and lighthearted, jovial and not serious and is a reference to a prank that is rumoured to occur at Christmas work functions. The Board noted that there is no nudity in the advertisement and that although the advertisement was delivered in the mail it is not inappropriate to be seen by children. The Board considered that the advertisement treated sex, sexuality and nudity with sensitivity to the relevant audience and did not breach section 2.3 of the Code.

The Board also noted that the advertisement is in an unsolicited, post-card form to people's homes, that this type of advertising is permitted in Australia and that consumers could elect not to receive miscellaneous sales promotions by putting a no junk mail sign on their letterbox.

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