



CASE REPORT

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| 1. Complaint reference number | 561/09 |
| 2. Advertiser | Foxtel (Chelsea Lately) |
| 3. Product | Entertainment |
| 4. Type of advertisement | Outdoor |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 9 December 2009 |
| 7. DETERMINATION | Upheld – discontinued or modified |

DESCRIPTION OF THE ADVERTISEMENT

This outdoor advertisement depicts a woman with blonde hair - a dark skinned, overweight male is looking up her dress while his hand reaches up to her thigh.

THE COMPLAINT

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

This bus shelter is out the front of a primary school, Upper Mt Gravatt Primary School. It is utilised by a large number of children from this school and another nearby primary school. The ad is inappropriate. Please remove the signage from this site asap.

Considering the fact that 'Upskirting' is widely condemned and arrests have been made recently I find it contemptuous of Foxtel to be stating this is acceptable behaviour. Entertainment Television www.Eonline.com will have to accept responsibility too as it is their show that Foxtel has bought. Their website for Chelsea Lately shows the headline BIOS ARE FUN change to BOIS ARE FOR STALKERS! when clicked on. I know celebrities are targets for stalkers but to openly invite this is behaviour is morally reprehensible!

The tram stop owned by Adshel is where university students walk by day and night and Foxtel more than likely thinks this harmless as young people see these images on American teen movies. It would come as no surprise that school students are Upskirting with their mobile phones yet Foxtel, Entertainment Television and Adshel consider the Chelsea Lately poster is acceptable advertising. I have emailed Adam Suckling Director - Policy/Corporate affairs at Foxtel asking him to remove the posters and rethink the Chelsea Lately advertising campaign and await his reply.

Location of the advertising at several bus shelters often with school children. Displays inappropriate behavior by male persons. Suggests this behavior is funny and sends the wrong message to people, "that looking up females skirts is ok". I'm trying to teach my children particularly boys to have respect for women and this sort of advertising goes against this.

Although I understand the pun, I thought the add was backwards, creepy and perverse. I know nothing about the show or comedian/s, therefor the humour intended was lost on me. A man looking up a woman's skirt is not a picture I think society should show approval for by having on a public street. What sort of message does it send out to people who may actually do that sort of thing?

THE ADVERTISER'S RESPONSE

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

E! Entertainment Television, Inc. (E! Networks) notes that the Advertising Standards Board (ASB)

is considering complaints lodged in relation to the “Chelsea Lately – Comedy with Balls” promotional poster (Poster).

AANA Code of Ethics (Code)

The Poster is being reviewed against Section 2.1 and 2.3 of the Code.

Section 2.1 of the Code provides that:

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, nationality, sex, age, sexual preference, religion, disability or political belief.

Section 2.3 of the Code provides that:

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

Overview

In July 2007, Chelsea Handler broke into the world of male-dominated late-night talk shows in the USA with her E! Entertainment series: “Chelsea Lately”. Chelsea Lately offers a tongue-in-cheek look at entertainment news, celebrity rumors and other hot topics of the day. Chelsea’s comedy mixes fearless honesty, ironic riffs and self-deprecation. In the USA, Chelsea Lately performs best among women aged 18-34.

The Chelsea Lately program now airs on the E! channel distributed by Foxtel and other operators in Australia.

The Poster

The man featured in the Poster is the on-screen assistant of Chelsea, Chuy Bravo. It is the interaction between Chelsea and Chuy which is the subject of the complaints.

The Chelsea Lately program regularly features irreverent exchanges between Chelsea and Chuy. The promotional Poster aims to highlight the irreverent nature of the television program and Chelsea’s breakthrough into the male-dominated world of late night TV. The Poster itself identifies Chelsea Lately as a late night television program.

Although the Poster is cheeky and irreverent, it is not sexualised, and it does not depict sex, sexuality or nudity. The Poster was part of a successful advertising campaign for the Chelsea Lately show in the United Kingdom.

Despite these matters, E! Networks always listens to community concerns. In this case, after it received complaints about the Poster, E! Networks replaced the Posters with a new, modified version. In the modified version of the Poster, Chuy Bravo has been entirely removed. Only Chelsea is shown.

Conclusion

E! Networks is a responsible advertiser with numerous internal and external processes to review all advertisements to ensure compliance with legal and ethical considerations. In this case, E! Networks has responded to community concerns by modifying the Poster which was the subject of the 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 complainants' concerns that the advertisement is inappropriate to be publicly published on outdoor advertisements as these are viewable by children and that the content is inappropriate sexually. The Board noted that the advertiser has voluntarily modified the advertisement prior to its consideration by the Board.

The Board noted that the advertisement depicts characters from a television programme portrayed in a manner that is consistent with their on-screen characters. The Board considered that the advertisement is sexualised as it clearly depicts a man looking up a woman's skirt and reaching up. The Board considered that outdoor media and billboards are available to a broad audience and that children will therefore see and possibly be attracted to this advertisement. The Board noted that the particular program is aimed at adult women and that children would not recognise the advertisement as being related to a program. The Board considered that the advertisement did not treat sex, sexuality and nudity with sensitivity to the relevant audience and determined that the advertisement did breach section 2.3 of the Code.

ADVERTISER RESPONSE TO DETERMINATION

Comments which the advertiser made in response to the Board's determination are:

"Prior to receipt of the ASB's inquiry regarding the Advertisement, E! Networks responded to community concerns by promptly replacing the Advertisement with a modified version without Chuy Bravo."