



## CASE REPORT

- |                               |   |
|-------------------------------|---|
| 1. Complaint reference number | 562/09  |
| 2. Advertiser                 | Foxtel (Chelsea Lately)                         |
| 3. Product                    | Entertainment                                   |
| 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              | Upheld – discontinued or modified               |

## DESCRIPTION OF THE ADVERTISEMENT

This print advertisement depicts a woman with blonde hair standing in a manner mildly suggestive of Marilyn Monroe. There is a dark skinned and overweight man looking up her dress and his hand reaching up to her thigh.

## THE COMPLAINT

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

*Please find attached page 15 of the television supplement which appeared in Brisbane's "The Sunday Mail" edition of 15 November 2009.*

*We find it incomprehensible that Foxtel Management consider that such an advertisement would meet community standards and ask: has the race for market share blinded Foxtel to its responsibilities?*

*Whilst our television viewing is strictly regulated for children's viewing times the page, the subject of this complaint, is readily available to children of all ages - including prereaders - and, to this end, we find the advertisement offensive.*

*We await your response.*

*Re: Murdoch Newspapers - Foxtel Advertisement*

*Please find attached advertising page headed 'Comedy With Balls', which appeared in 'The Sunday Mail TV guide, November 15-21, 2009, a supplement to the Murdoch owned newspaper 'Sunday Mail' November 15, 2009, I wish to formally complain that I find the wording, photographic pose and tone as being totally offensive in this advertisement. The heading 'COMEDY WITH BALLS' is crude and obnoxious, and in my opinion, not fit for child of any age to read in a family magazine. Though not specifically labelled as 'family', naturally the children gravitate to the magazine listing their favourite TV shows. No doubt they draw attitudes from what they see as probably being 'a bit naughty', e.g. a male posing as a pervert about to grab a girl's crotch. This surely equates to something found in a girly magazine, or worse. As a mature adult, I find advertising of this kind totally offensive to both sexes, and the immature attitude of the advertiser in need of re-education.*

*It features a young lady standing up spreading her skirt, so an older man who is laying on the ground is peering up her skirt looking for "her balls".*

*This ad is featured in a family TV guide and find it highly offensive and degrading for females. I have 3 teenage daughters and we all think it is unacceptable to portray women in such a humiliating pose. The Sunday Telegraph TV guide is a family publication, it's not Playboy!!!*

*1. It is objectionable.*

2. It is offensive.
3. It is demeaning to both men and women, but particularly women.
4. It gives children the impression that looking up a woman's skirt while smiling & reaching out to touch her is something funny to do. That it is somehow cute and/or acceptable. How? Because the man is smiling and the woman is not objecting.
5. Anyone, from pensioners to children, can and do access television magazines to check programme line-ups. Printed advertising of this nature should not be allowed to appear in such easily accessible magazines.
6. It is tasteless.
7. It is NOT humorous despite apparently being intended to publicise/advertise an allegedly comedic programme.
8. It is overtly grubby, slimy and sleazy in nature.

## **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 included in the television guide of a newspaper as it is available to 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, consistent with previous discussion about television guides, considered that a television guide is part of the paper that children are attracted to 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.

Finding that the advertisement breached the Code, the Board upheld the complaints.

#### **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."