



CASE REPORT

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| 1. Complaint reference number | 582/09 |
| 2. Advertiser | Telstra Sensis (yellow pages) |
| 3. Product | Telecommunications |
| 4. Type of advertisement | Internet |
| 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 Internet based animated advertisement for Yellow Pages features a fountain in the form of a male statue. The water spouts from the penis of the statue. The spout of water is modest at first. The stream stops and then a stronger stream is depicted. The next scene shows a stone being propelled toward a window and the window being broken. Next image is an old couple looking out through the now broken window. The man is on the telephone, holding a copy of Yellow Pages. Image shows “From landscapers to window repairers, let your fingers do the walking.” The final image shows the yellow pages online search being filled in and submitted.

THE COMPLAINT

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

I do not wish to see animated urinating statues while I eat my breakfast!

I do not wish to view urination online. When I am on a news site it is not to be expected - as it is animated it is even more offensive.

It is in very poor taste showing a statue of a small boy urinating over the ad in increasing volume. Urination is hardly something to help sell a product.

The statue is quite famous - I did after all recognise it. But to put it in this context is crude and offensive.

How can urinating on someone else's home window and breaking it be a suitable way of advertising?! As I said, it is crude and offensive, and not even subtle.

I believe the ad has issues with the 'portrayal of nudity' as well as with 'social values'.

I think it's self explanatory.

THE ADVERTISER'S RESPONSE

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

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.

A copy of the Commercial, a script and a media schedule are also enclosed for your consideration.

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 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 cupid 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. You should also be aware that Commercial 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's needs.

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 statue 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 statue urinating and noted that this online advertisement is a follow on to a similar television advertisement.

The Board noted upon viewing the advertisement that the figure which is the subject of the advertisement, was an animated water feature cherub .

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 considered that the image of the cherub 'urinating' is clearly water, rather than urine. 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.