

## Case Report

1. Case Number :	0088-24
2. Advertiser :	Bergmann Plastering
3. Product :	Professional Service
4. Type of Advertisement/Media :	Commercial Vehicle
5. Date of Decision:	17-Apr-2024
6. Decision:	Upheld – Not Modified or Discontinued

### ISSUES RAISED

AANA Code of Ethics\2.2 Exploitative or Degrading

AANA Code of Ethics\2.3 Violence

AANA Code of Ethics\2.6 Health and Safety

### DESCRIPTION OF ADVERTISEMENT

This vehicle advertisement features the advertiser logo and the slogan "First we get plastered then we fill your holes".



### THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*I think their strapline "we'll get you plastered then fill all your holes" goes beyond sexual innuendo and infers elements of sexual assault. In this day and age around safety for women, consent - this is grossly out of step with community expectations and doesn't need to be in circulation.*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*Advertiser did not provide a response.*

## **THE DECISION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement infers sexual assault.

The Panel viewed the advertisement and noted the advertiser did not provide a response.

### **Section 2.2: Advertising should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people.**

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

- Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised.
- Degrading – lowering in character or quality a person or group of people.

### **Does the advertisement use sexual appeal?**

The Panel noted that this advertisement contains sexual innuendo, which some people would find appealing.

### **Does the advertisement use sexual appeal in a manner that is exploitative?**

The Panel considered that the advertisement did not contain any images.

A minority of the Panel considered that the advertisement did not contain a reference to women or to any particular group of people.

The majority of the Panel considered that while a gender was not identified in the advertisement, the comment "fill your holes" followed by the names of two male

tradies would most likely be interpreted as being a comment about women. The Panel considered that the statement in the advertisement reduces women to sexual objects and is exploitative of women.

### **Does the advertisement use sexual appeal in a manner that is degrading?**

Further to the reasons discussed above, the Panel considered that reducing women to sexualised objects lowers women in quality and character and the Panel considered that the advertisement is degrading of women.

### **Section 2.2 conclusion**

Finding that the advertisement did employ sexual appeal in a manner which is exploitative or degrading of an individual or group of people, the Panel concluded that the advertisement did breach Section 2.2 of the Code.

### **Section 2.3: Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised**

The Panel noted the Practice Note for this section of the Code which states:

*“sexual violence is not acceptable under any circumstances”.*

### **Does the advertisement contain violence?**

The Panel noted that the Code and the Practice Note do not provide a definition of violence. The Panel noted that they needed to consider whether the general community would consider this ad to portray violence.

The Panel noted that social and legal attitudes towards consent had changed recently, and some states had adopted a requirement for positive consent before any sexual interaction.

A minority of the Panel considered that statements such as this, which normalise drinking excessively and then engaging in sexual activity, creates an environment where sexual assault can occur. The minority of the Panel considered that this suggestion of sexual assault would be considered violent.

The majority of the Panel considered that there was no indication that any sexual activity was not consensual. The Panel considered that the statement was intended to be humorous innuendo using terms related to plastering, and was unlikely to be seen as encouraging or condoning sexual assault. The Panel considered that the advertisement did not contain violence.

### **Section 2.3 Conclusion**

The Panel concluded that the advertisement did not present or portray and did not breach Section 2.3 of the Code.

**Section 2.6: Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.**

The Panel noted that the statement was on a commercial vehicle which would presumably travel to worksites. The Panel considered that the statements were intended to be humorous, however the innuendo was of a kind which is not appropriate in workplaces.

The Panel considered that the term ‘plastered’ is a commonly used phrase which means drunk, and that drinking excessively is also not a behaviour which is appropriate in workplaces.

Overall, the Panel considered that the statement would be against the workplace health and safety regulations of most worksites.

**Section 2.6 conclusion**

The Panel concluded that the advertisement contained material contrary to Prevailing Community Standards on health and safety and found that it did breach Section 2.6 of the Code.

**Conclusion**

Finding that the advertisement breached Sections 2.2 and 2.6 of the Code, the Panel upheld the complaint.

**THE ADVERTISER’S RESPONSE TO DECISION**

The advertiser has not responded to the upheld decision. As the photo supplied by the complainant did not include the vehicle’s registration number Ad Standards is at present unable to issue a Code Breach Notice to Transport for NSW.