



Case Report

1	Case Number	0252/13
2	Advertiser	Santa Fe Gold
3	Product	Sex Industry
4	Type of Advertisement / media	Billboard
5	Date of Determination	14/08/2013
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

Billboard advertisement for Sante Fe Gold featuring a woman in a low cut top which exposes a substantial part of her bosom. The text reads, "I'm waiting".

THE COMPLAINT

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

Although this billboard appears in the nightclub section of Townsville, Reef HQ and the Townsville museum and popular family restaurants are also located in this area and the billboard is located at a car park that is frequented by people parking to take their children to local family venues.

ANNA Code of Ethics section 2.2 states "Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people."

- this ad is completely degrading to women, showing a large cleavage and implying she is available to be oogled and 'available'.

ANNA Code of Ethics section 2.4 states "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience."

- as stated previously, although this billboard is displayed in the nightclub section of Townsville, it is situated above a car park which is available to people visiting family

restaurants and family entertainment venues therefore is on display for children and other people who are offended by these types of images.

THE ADVERTISER'S RESPONSE

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

Complaint

Although this billboard appears in the nightclub section of Townsville, Reef HQ and the Townsville Museum and popular family restaurants are also located in this area the billboard is located at a car park that is frequented by people parking to take their children to local family venues

Response

Santa Fe is an up market adult entertainment business that has operated from the same premises since 1995.

Santa Fe conducts its business lawfully and with the requisite licences including a valid Adult Entertainment Permit.

The Advertisement has otherwise been on display without complaint.

Santa Fe is an adult entertainment business involving tastefully dressed and talented dancers. The business has a legal right to advertise.

The Advertisement faces a car park, commercial buildings, licenced venues and restaurants. Across the road from the Advertisement are more licenced venues, bars and pubs and a backpackers hostel.

Relevantly, there is another Adult Entertainment Business (Showbar 151) across the road from Santa Fe. Show Bar 151 also displays advertising of its business. Examples of the Advertising conducted by Showbar 151 is contained at Annexure B. Showbar 151 is located next to a publicly accessible minimart store. It is submitted the Showbar 151 Advertisements are:

- far more explicit;*
- visible to children;*
- effectively show full body nudity with arms (as opposed to clothing) covering the breasts.*

It is submitted that the area the Advertising is consistent with the precinct business and in any event:

- is not offensive in any reasonable sense having regard to the prevailing community standards; and
- far less explicit than the Showbar 151 advertisement.

The Advertisement is located on a privately owned building from which the business of Santa Fe operates from.

Flinders Street East is home to numerous nightclubs, bars, pubs, and restaurants and other adult entertainment venues; and is a designated nightclub and entertainment precinct of Townsville. The Advertisement and business is located within the boundaries of that precinct

Reef HQ and the Townsville Museum conduct their business in another building. The entrance to Reef HQ/Museum is located approximately 200 meters away from the Advertisement. The Advertisement cannot be seen from the entrance.

Annexure C contains photos of the Advertisement and the surrounding businesses and buildings.

The Advertisement could not reasonably be regarded as offensive even to children having regard to the Prevailing Community Standards.¹ As evidence of same Annexure D contains 4 recent advertising publications:

Front Cover Duo Magazine August 2013 edition showing a woman whose cleavage is exposed. The Magazine is:

- a family friendly magazine;
- includes advertisements directed to children.

Classifieds Ads Townsville Bulletin page 54, 3 August 2013. Note the following:

- *The Bulletin is the local newspaper distributed through North Queensland;*
- *The Bulletin is available to children and contains sections from time to time directed to children;*
- *The Bulletin advertises “Adult Services”, particularly brothel and in/out services; and*
- *the Adult Services are located next to advertisements for pet sales such as puppies and kittens which would be viewed by children.*

Virgin Airlines Ad – “Your business. Our pleasure” The advertisement shows:

- *an appealing brunette woman with a large inviting smile serving champagne to a male;*
- *a blonde woman walking with a similar expression behind her.*

News Article “Racy Billboard Returns” 10 December 2009. The article is a media reflection of the prevailing community standards. It is submitted the Complainant has confused her

personal beliefs with the Prevailing Community Standards.

Whilst the Complainant is entitled to an opinion, the complainant fails to demonstrate any breaches of the appropriate Code. Furthermore, if the concern was that the Advertisement could be viewed by children it would be not unreasonable to expect the parents of such children to provide the appropriate parental guidance. Santa Fe submits that at most, the Advertisement would be given a “PG” rating, if it were to be rated.

Complaint

This ad is completely degrading to women, showing a large cleavage and implying she is available to be oogled and “available”

Section 2.2 ANNA Code states “advertising or Marketing communications should not employ sexual appeal in a manner which is exploitative integrating of any individual or group of people

Response

Respectfully, the complaint is vague and it is not entirely understood what is meant by the words “oogled and available”.

The woman is certainly not “available” in the sense that she is available for “sex” because there is no statement or implication in the Advertisement to that effect. Any implication is utterly rejected. The implication is that Santa Fe are breaching the law and conducting an illegal enterprise. Santa Fe operates within the terms of their licence which they take seriously.

The Advertisement does not degrade women and is not exploitative.

It describes its dancers as:

- showgirls of style, dancers of fantasy; and*
- Friendly girls for a guaranteed welcome.*

Even on an extreme view it could not be said:

- that the Advertisement employs “sexual appeal in a manner which is exploitative and degrading of any individual or group of people.”; or*
- that it does not “treat sex, sexuality and nudity with sensitivity to the relevant audience”*

The image was carefully selected in line with Santa Fe’s image as an upmarket adult establishment. It shows an appealing woman with excellent deportment.

The expression on the model is neutral and non-suggestive and is no different to numerous other images viewed in the mainstream media at any given time. There is no reference to sex, sexuality or nudity in the Advertisement.

The Advertisement is not targeted at children and in any event does not contain sexual imagery in contravention of the prevailing community standards. The artwork is similarly treated.

The staff and dancers of Santa Fe are treated with professionalism and respect in line with the company's policy of maintaining an upmarket presentable image.

Women represent a significant proportion of Santa Fe's customer base and accordingly Santa Fe is at pains to ensure that its customer base is not offended in any way.

There is nothing aggressive or objectifying within the image. The model presents in tasteful attire.

The woman's breasts are not revealed.

The woman's breasts are covered.

The woman's cleavage can be seen, however the extent of what is revealed is no more than what may be revealed in the normal course of daily living for example at the beach, attending a nightclub, social events, and the like.

Breast shapes and sizes vary remarkably. The complainant fails to explain any significance to be attached to the comment that the models breasts are large. Many women are undergoing surgery for breast augmentation as evidenced in an advertisement appearing in the Duo Magazine appearing in Annexure B. The Advertisement appears at Annexure E and is further evidence of the prevailing community standard in relation to breast size and level of exposure.

The Advertisement does not reveal any private parts.

Based on the location of the building and the nature of the image, the Advertisement does not treat sex, sexuality and nudity with insensitivity and it is not inappropriate for a broad audience including children.

Accordingly there is no breach of clause 2.4 of the Code.

Complaint

Although this billboard is displayed in the nightclub section of Townsville, it is situated above a car park which is available to people visiting family restaurants and family entertainment venues therefore is on display for children and other people who are offended by these types of images.

Section 2.4 ANNA Code states "Advertising or Marketing communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience"

Response

The Complainant has repeated her complaint and the Respondents repeats and relies on the responses given above.

Furthermore the Advertisement has considered by Liquor Licencing and an initial draft of the Advertisement was presented with the words “Dancers of Pleasure”.

After discussions with Liquor Licencing the wording was changed to “Dancers of Fantasy” as it is currently stated in the Advertisement.

All other aspects of the Advertisement received no objection from Liquor Licensing (including the image of the model) as evidenced by the communication from Liquor licencing contained in Annexure F.

Case Decisions

Case decisions by ASB in support of a dismissal of the complaint are attached at Annexure G.

Case number 0172/13 – Love and Rockets.tv

Consistent with the decision of the board in the above case, the board must dismiss the complaint against Santa Fe and find that the Advertisement is not inappropriate for the relevant audience and did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience. The Advertisement does not breach section 2.4 of the Code.

Case number 0223/13 – Erotic Nights Pakenham

This advertisement featured a woman lying on her back with her legs bent so her knees are raised and with her arms stretched above her head. The woman was wearing a black corset, suspenders and black stockings and black high heeled shoes.

Santa Fe’s advertisement by comparison is far less suggestive.

The board dismissed the complaint and accordingly the board should do so in the current complaint.

Case number 464/09 – B Confidential

Black and pink sign with the woman on the left-hand side and words “tell your wife that you will be home late”.

The board dismissed this complaint. The complainant failed to establish that the board degraded women. The wording of Santa Fe’s advertising, similarly, is not degrading to women but refers to the friendliness of its dancers.

The Complainant’s complaint should be dismissed based on the reasoning of the board.

Conclusion

In summary, Santa Fe submits:

The image does not objectify women.

The showing of cleavage is an acceptable standard.

The advertisement is tasteful and would not cause offence having regard to the Prevailing Community Standards

The Advertisement does not breach any of the ethical guidelines of the ANA Code.

The Advertisement has the approval of Liquor Licencing.

The Advertisement is not targeted at children and is not inappropriate.

A dismissal of the complaint would be consistent with the ASB's previous discussions on similar issues.

The Complaint must be dismissed.

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 concerns that the advertisement is degrading in its depiction of the woman's and shows significant cleavage and is inappropriate for viewing by children.

The Board viewed the advertisement and noted the advertiser's response.

The Board considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: "Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people."

The Board noted that the advertisement is a large billboard on the side of a building and features a woman leaning forward so that her cleavage is visible and to the left of her are the words, "I'm waiting."

The Board noted the complainant's concerns that the images of the women are objectifying and noted that in order to breach this Section of the Code the images would need to be considered both exploitative and degrading.

The Board noted that the product advertised is a gentlemen's club and a minority of the Board considered that the image was relevant to the product and that it is acceptable to use images of women when advertising a venue of this nature.

However, the majority of the Board considered that in connection with the text "I'm waiting", the sexual nature of the business and the sexualised image of the woman, the advertisement presented the woman in a manner that was subservient and degrading. The Board considered that the depiction of her waiting to serve or provide sexual gratification to others was degrading to her and to women.

The Board determined that the advertisement did employ sexual appeal in a manner which is exploitative and degrading and that the advertisement did breach Section 2.2 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Board noted that the advertisement is above a car park which is used by patrons to family restaurants and entertainment centres and so it is likely to be viewed by a broad audience which would include children.

The Board noted that the woman was wearing a bra or low cut top. The Board agreed that the neckline was very low and that the nipple of the woman’s left breast was seemingly exposed. The Board agreed that although it is difficult to determine exactly whether the nipple is visible, the first, likely impression and perception is that there is an exposed nipple and that the position of her breast would suggest that that is where the nipple would appear anatomically. The Board considered that the low cut top exposed the majority of the woman’s breasts in a sexually suggestive manner.

The Board considered that the pose of the woman and the surrounding text “I’m waiting” equated to an image that was overtly sexualised and that it did not treat sex, sexuality and nudity with sensitivity to the relevant audience and did breach Section 2.4 of the Code.

Finding that the advertisement did breach the Code on the above grounds, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

Santa Fe have carefully reviewed the response of the Board.

Clearly the decision of the board is predicated on a belief that the “nipple was seemingly exposed”.

The board also agreed that it is difficult to determine exactly whether the nipple is visible.

Santa Fe did not intend for the Advertisement to show any part of a woman’s nipple or areola and it was surprised to read of the board’s findings in that regard.

Whether a nipple can be seen or not is subjective to the viewer. This is clearly recognised by the board itself.

It appears there has been a corruption in the electronic image that led to the formation of the Advertisement. This may explain the appearance of areola to some board members.

Significantly:

- the complainant does not complain that she could see any nipple in the Advertisement and the complaint was made on other grounds; and
- no complaint has been made by any other person or body that nipple was visible.

No offence was ever intended by Santa Fe. Santa Fe wish to apologise to any person who may have been offended by the Advertisement.

Santa Fe is now urgently working with its graphic artist to produce a rectification of the image and will submit a revised image to ASB for comment.

Santa Fe wish to work with ASB to rectify the image so that it is in line with acceptable standards. We will revert to you again upon receipt of the revised image from Santa Fe.