

Date: January 2016

Dear Mr Tudge,

**Re: Ineffectiveness of the current Code and Self-Regulation in Advertising and Marketing Standards**

The current system of self-regulation within advertising, in accordance with the Australian Association of National Advertisers (AANA) Code (the Code), has a number of crucial drawbacks that detrimentally affect the wellbeing and development of children, women, and men. We are calling on the Government to make the necessary changes: 1) to strengthen the existing Code where it is inadequate, and 2) to ensure its effective implementation through an independent system rather than self-regulation.

This letter outlines and provides examples of the major problems with the Code itself and of the self-regulatory mechanism, indicates existing responses and limitations, elucidates the work that Collective Shout<sup>1</sup> has done in relation to this issue, and makes recommendations for further change.

Collective Shout has identified a range of inadequacies in the current system, including (but not limited to) the following:

- **Limitations to the Code itself:** (e.g. a mobile billboard that advertised a brothel was found by the Advertising Standards Board, ASB, not to be in breach of the Code despite being placed near a school, as the Code does not restrict where advertisements for adult products or services are placed. Appendix One provides the ASB's response to the complainant.)
- **A weak code of ethics, desensitisation of panel members and subjective and inconsistent interpretation and application of the Code:** sexist advertisements are not controlled, the standard established by the current AANA Code are vague and fail to provide the ASB with meaningful guidance in applying the Code, and companies take advantage of the ambiguity to employ sexist and offensive advertising.
- **Little or no consultation with health and child welfare professionals:** the media has a clear, adverse affect on the normal development of young girls and boys,<sup>2</sup> particularly as children are increasingly sexualised. Premature sexualisation of children has short- and long-term (negative) effects of on child development, cognitive functioning, physical and mental health and sexuality.
- **The voluntary nature of the Code:** advertisers in breach of the Code face no disciplinary action from the ASB. They cannot be compelled to comply with the Code, and advertisements found to be in breach of the Code can still be displayed with impunity
- **Lack of pre-vetting** of advertisements, allowing advertisers who are repeat offenders to place new advertisements without any controls
- **Inadequate monitoring and reliance on the community** to notify the ASB of problematic advertising, while there is **low public knowledge of complaints processes and procedures** and **little knowledge or concern among advertisers of public perceptions** of acceptable standards.

The current system of ineffective self-regulation has allowed the advertising industry to use self-regulation to its commercial advantage, to the detriment of the community and of women and girls in particular. It allows advertising that causes harm to children's and young people's sexual development including perceived norms of sexual relationships. Dr Emma Rush, co-author of *Corporate Paedophilia: Sexualisation of children in Australia*, noted:<sup>3</sup>

‘...the case by case approach currently used by both government regulation and industry self-regulation will not work for this issue. We need an integrated regulatory approach covering all

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<sup>1</sup> A grassroots movement challenging the objectification of women and sexualisation of girls in the media and popular culture, available at: <http://www.collectiveshout.org>

<sup>2</sup> Lesley-anne Ey, and Elspeth McInnes, (2015), ‘Music Videos Broadcast on Australian Free-to-air Television in Child-friendly Time Periods’, *Children Australia*, Vol. 40, Issue 01, pp 58-68; See also the Senate Standing Committee on Environment, Communication, and the Art's findings, released in June 2008, available at: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/Completed\\_inquiries/2008-10/sexualisationofchildren/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Completed_inquiries/2008-10/sexualisationofchildren/index)

<sup>3</sup> Emma Rush, and Andrea La Nauze, (2006), *Corporate Paedophilia Sexualisation of children in Australia*, Discussion Paper Number 90, Available at: [http://www.tai.org.au/documents/dp\\_fulltext/DP90.pdf](http://www.tai.org.au/documents/dp_fulltext/DP90.pdf)

relevant industries, with the expertise of child health and welfare professionals structured into the regulation process and regulation enforceable by law. The evidence of... minimal response by industry shows that the market culture around this issue will not shift without stronger government initiative.<sup>4</sup>

To illustrate the irresponsible and damaging types of advertising that have been subject to complaints, we cite the following examples concerning Wicked Campers, a company providing camper vans. The company has slogans on the outside of vans (therefore visible to the public at large) that include: 'Women fake orgasms because they think men care'; 'A blow job a day beats an apple'; and 'Blow in her face and she'll follow you anywhere'. These and other slogans gratuitously refer to sex and, especially the last example, would be widely seen as demeaning women. These and other slogans have been the subject of public complaint and addressed by the ASB, but the company has not responded and no penalties are in place. Appendix Two provides further examples of sex-related advertising that is considered inappropriate and damaging, and where the sexism<sup>5</sup> of an advertisement has been brought to the attention of the ASB but the Board has not found it to breach the Code. While humour around sex is often healthy, to suggest that women slavishly respond to the joy of ejaculation into their face is surely going beyond harmless 'humour'? In fact, a fundamental aspect of internet pornography is the extent to which men justify such demeaning behaviour via the fantasy that women actually enjoy being degraded. Ample evidence exists of the extensive damage that such pornography is inflicting on sexual relationships and normal sexual development, particularly among the young.<sup>6</sup>

Inappropriate advertising, in addition to demeaning women, also includes the sexualisation of children themselves. In June 2008, the Senate Standing Committee on Environment, Communications and the Arts made 13 recommendations to the Commonwealth pertaining to the sexualisation of children in contemporary media, including radio and television, children's magazines, other print and advertising material, and the internet.<sup>7</sup> These recommendations are provided in full in Appendix Three, and were based on the following:

- (i) An examination of the sources and beneficiaries of premature sexualisation of children in the media;
- (ii) A review of the evidence on the short- and long-term effects of viewing or buying sexualising, and objectifying images, and products, and their influence on cognitive functioning, physical and mental health, sexuality, attitudes and beliefs; and
- (iii) An examination of strategies to prevent and/or reduce the sexualisation of children in the media, and the effectiveness of different approaches in ameliorating its effects. This included the role of school-based sexuality and reproductive health education, and change in media and advertising regulation such as the Commercial Television Industry Code of Practice, and the Commercial Radio Codes of Practice.

Despite this extensive undertaking, which resulted in certain improvements, much more remains to be done. Over seven years later, five recommendations (numbers 8 to 12) have not been implemented. These relate to: the establishment of a media and advertising complaints clearing house with specific responsibility to forward complaints to an appropriate independent body; informing complainants of this action and providing them with contact information; six-monthly provision by the ASB of lists of all complaints where impact on children is noted as a factor; consideration of a pre-vetting procedure for advertisements in certain instances; a formal schedule of community consultation; and rigorous application of standards

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<sup>4</sup> Emma Rush, (2010), 'The Market Is Eating Our Children', Available at: <http://www.onlineopinion.com.au/view.asp?article=10062>

<sup>5</sup> The issue is not that advertisement is necessarily "sexual", the problem is to do with the representation of sexuality and the extent to which that involves demeaning and degrading women. References to sex or sexuality may be entirely appropriate in the right circumstances, however, essentially sexist references that portray women and girls as sexualised objects simply furthers the violence, discrimination, and objectification that women and girls face.

<sup>6</sup> Gail Dines, (2011), 'Pornland: How Porn has Hijacked our Sexuality, ReadHowYouWant Ltd,' ;Pamela Paul, (2006), 'Pornified: How Pornography Is Damaging Our Lives, Our Relationships, and Our Families', Henry Holt and Company.

<sup>7</sup> The Senate Standing Committee on Environment, Communications and the Arts, (2008), *Sexualisation of Children in the Contemporary Media*, Available at: [http://www.aph.gov.au/binaries/senate/committee/eca\\_ctte/sexualisation\\_of\\_children/report/report.pdf](http://www.aph.gov.au/binaries/senate/committee/eca_ctte/sexualisation_of_children/report/report.pdf)

regarding sexually explicit material on billboards and other outdoor advertising where access by children cannot be limited.

Collective Shout urges the Commonwealth to adopt in full and as a priority, all of the Standing Committee's recommendations for reasons outlined in their report. Collective Shout specifically makes the following recommendations:

1. Responsibility for regulation should be given to an independent body or authority, with the power to establish a system of pre-vetting billboards before their placement. An independent review system should replace industry self regulation as a way to assess the suitability of outdoor advertising.
2. The onus of regulation must be clearly placed on broadcasters, publishers, advertisers, retailers and manufacturers to take account of community standards and concerns, as opposed to reliance upon the community to express their concerns in reaction to advertisements.
3. Any code of ethics by which Queensland advertisers are required to abide should reflect the growing body of research in regard to the sexualisation of children and objectification of women. Objectification and sexualisation of women and girls should be considered to constitute sexual harassment and discrimination, and be treated as threats to the health, wellbeing and status of women and girls.<sup>8</sup>
4. Any code of ethics by which Queensland advertisers are required to abide should clearly reflect that unsolicited and unwanted exposure to sexualised and pornified images is a form of sexual harassment.
5. Any regulatory body (either existing or new) should be required to consult the relevant international research, along with child and youth development experts, to ascertain the possible impact of advertising with sexualised content or messaging on this audience.
6. Clear rules should be set out governing the placement of outdoor advertising, and limitations imposed in respect of where outdoor advertising can be placed.

Collective Shout is not the only voice calling for such changes or making such recommendations. The question with the most votes (by a margin of about 300) on [www.oursay.org](http://www.oursay.org) as of the 7<sup>th</sup> of January 2016 is how Malcolm Turnbull is going to deal with the issue of self-regulation. Verina Railings of ourSAY commented as follows:

"...self regulation in advertising in this country is failing. The ASB has no power to regulate the type of advertising that contributes towards the sexualisation and objectification of women and children and men, and no ability to call them to account. We know that having women portrayed as objects and not people increases the risk of violence against them. We also know that presenting children with a hypersexualised world makes them vulnerable. The refusal of companies such as Wicked Campers and others to comply with directives and to be repeat offenders in advertising that do exactly these things, clearly shows that the system has

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<sup>8</sup> Studies show that the constant exposure to this kind of material has an impact on the mental health of women and girls. For examples, see the following: <http://www.cwhn.ca/en/hypersexualizationprimer2>; [Rochelle Hine](#), (2011), 'In the Margins: The Impact of Sexualised Images on the Mental Health of Ageing Women', available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3185229/>; Jessica Valenti, (2015), 'Sexism is making women sick', *The Guardian*, available at: <http://www.theguardian.com/commentisfree/2015/jan/26/sexism-is-making-women-sick> <http://www.theguardian.com/commentisfree/2015/jan/26/sexism-is-making-women-sick>, and Jessica Valenti, (2015), 'Worldwide sexism increases suicide risk in young women', <http://www.theguardian.com/commentisfree/2015/may/28/worldwide-sexism-increases-suicide-risk-in-young-women>; Laurel B. Watson, Jacob M. Marszalek, Franco Dispenza, and Christopher M. Davids, (2015), 'Understanding the Relationships Among White and African American Women's Sexual Objectification Experiences, Physical Safety Anxiety, and Psychological Distress', *Sex Roles*, Vol. 72, Issue 3, pp 91-104.

failed.

How does the Minister intend to deal with this issue?"<sup>9</sup>

Collective Shout not only endorses and echoes these sentiments, but also urges the Government to address this pressing issue, strengthen the Code where it is inadequate and put in place an independent system to ensure its effective implementation. Collective Shout is not alone in expressing concerns regarding these issues. Other initiatives to which Collective Shout has contributed include the inquiry by the Housing Standing Committee on Social Policy and Legal Affairs into the regulation of billboard and outdoor advertising,<sup>10</sup> and the Health and Community Services Committee's inquiry into sexually explicit outdoor advertising.<sup>11</sup>

If you require any further information or evidence, please do not hesitate to ask,

We look forward to your reply,  
Warm regards,



Coralie Alison  
Director of Operations  
Collective Shout

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<sup>9</sup> Verina Railings, available at: <https://oursay.org/community/askmalcolm>

<sup>10</sup> Housing Standing Committee on Social Policy and Legal Affairs, (2011), *Reclaiming Public Space: Inquiry into the Regulation of Billboards and Outdoor Advertising: Final Report*. Available at: [http://www.aph.gov.au/parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=spla/outdoor%20advertising/report.htm](http://www.aph.gov.au/parliamentary_Business/Committees/House_of_Representatives_Committees?url=spla/outdoor%20advertising/report.htm)

<sup>11</sup> Health and Community Services Committee, (2014) *Inquiry into Sexually Explicit Outdoor Advertising*, Report No. 36. Available at: <http://www.parliament.qld.gov.au/documents/committees/HSCS/2013/outdooradv/rpt-036-31Jan2014.pdf>

**Appendix One: ASB's reply to a complainant in regards to a brothel being advertised near a school**

Dear Patrycia,

Thank you for your email.

The Board noted that the mobile billboard would be viewed by a broad audience which would include children but found that the content of the advertisement did not breach the AANA Code of Ethics.

There are no restrictions on where advertisements for adult products or venues are placed. You may like to raise the issue about whether this product should be allowed to be advertised with your local member.

I am sorry that in this instance we are unable to be of any further assistance.

Kind Regards,  
Nikki

## Appendix Two: Examples of ASB's decisions and difficult in dealing with breaches

### Example 1

#### **Case Number 0555/14**

- Advertiser: Wicked Camper
- Product: Travel
- Type of Advertisement/media: Transport
- Date of Determination 14/01/2015
- DETERMINATION Upheld - Not Modified or Discontinued
- ISSUES RAISED 2.1 - Discrimination or Vilification Gender 2.4 - Sex/sexuality/nudity S/S/N - general 2.5 - Language Inappropriate language

**DESCRIPTION OF THE ADVERTISEMENT** This Wicked Campers van features a slogan on the rear which reads, 'Women fake orgasms because they think men care!'

**THE DETERMINATION:** The Advertising Standards Board (the Board) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the Code). The Board noted the complainant's concern that the advertisement features text that is derogatory to women and contains language about a topic that is inappropriate for viewing by a broad audience. The Board viewed the advertisement and noted the advertiser had not provided a response. The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.' The Board noted that the text on the van reads: 'Women fake orgasms because they think men care.' The Board noted that the same slogan had been complained about previously (ref: 0236/08); however the Board were unable to make a determination at that time as there was no image available. The Board noted that the statement could be considered to be discriminatory toward either men or women. The Board noted that the complainant's concerns related to the statement being derogatory toward women. The Board considered that the statement does refer to women faking orgasms because it would be more pleasing to their male partner. The Board agreed with the complainant's view that the statement's suggestion that men do not care about women is likely to be offensive to some people but did not reach a level that was considered discriminatory. The Board considered overall that the advertisement does not portray or depict material in a way that discriminates against or vilifies a person or section of the community on account of their gender.

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 it had previously upheld slogans for the same advertiser that contained statements of a sexual nature. Specifically in case 0363/14 where 'The Board noted that the advertisement makes reference to a sexual act ('a blowjob a day beats an apple).' In the case mentioned above the Board considered that the reference to a blowjob is blatantly sexual and is not appropriate for a broad community who could easily see this advertisement. Consistent with this previous determination the Board noted the advertisement uses the term 'orgasm' and considered that this clear reference to a sex-related topic is not appropriate for the back of a mobile van which is viewable by a broad audience and does breach Section 2.4 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.5 of the Code that states: 'Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.' The Board noted that the term 'orgasm' is understood to mean 'the climax of sexual excitement...' and does not carry a hidden meaning or double entendre. The Board agreed that although the word 'orgasm' is the correct word for the sexual act, in the context of a vehicle able to be seen by a broad audience the phrase is strong and brings the idea of sex and sexually related activities to viewers, which would include children. In this way, the Board considered that the language was not appropriate in the circumstances (including for the relevant audience) and did breach Section 2.5 of the Code. Finding that the advertisement did breach the Code on Section 2.4 and Section 2.5, the Board upheld the complaint.



THE ADVERTISER'S RESPONSE TO DETERMINATION The advertiser has not provided a response to the Board's determination. The ASB will continue to work with the relevant authorities in Queensland regarding this issue of noncompliance.

### Example 2

**Case Number 0556/14**

2 Advertiser: Wicked Campers

3 Product: Travel

4 Type of Advertisement / media Transport

5 Date of Determination 14/01/2015

6 DETERMINATION: Upheld - Not Modified or Discontinued

ISSUES RAISED 2.4 - Sex/sexuality/nudity S/S/N - general 2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT Slogan on the rear of a Wicked Campers van which reads, 'Blow in her face and she'll follow you anywhere...'

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 concern that the advertisement features language and images that are inappropriate for a broad audience particularly children. The Board viewed the advertisement and noted the advertiser had not provided a response. The Board considered whether the advertisement was in breach of Section 2.4 of the Code that states: 'Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience'. The Board noted that the van featured text on the back of the vehicle that read: 'Blow in her face and she'll follow you anywhere.' On the side of the vehicle there are images of sheep with a farmer approaching the sheep saying 'Come to Deddy.' The text also includes a response from the sheep of 'It's not the constant sex I object to, it's the bloody accent.' The Board noted it had previously upheld similar slogans for the same advertiser, specifically in case 0078/13 where: 'The Board noted that the advertisement makes reference to a sexual act. 'If you've ever met a woman with crooked teeth, you've met a woman who has given Chuck Norris a blow job.' The Board considered the term 'blow' and noted that it is derived from the term 'blow job' which is the colloquial term for the sexual act of fellatio (the oral stimulation of a man's penis). In the case mentioned above, the Board noted that 'the advertisement makes reference to a sexual act (blow job) and that the phrase in its entirety is a Chuck Norris joke which would be familiar to some members of the community. The Board considered however that regardless of whether you were familiar with the joke, in the Board's view the reference to a blow job is blatantly sexual and is not appropriate for a broad community who could easily see this advertisement.' Consistent with the matter mentioned above, in the current matter, the Board considered that most adult members of the community would understand this reference and considered that this reference to a sexual act is explicit and does not treat the issue of sex with sensitivity to the relevant broad audience. In addition, the Board noted that the images of the sheep on the side of the van and the inclusion of words suggesting the farmer has sex with the sheep. The Board noted that the depiction is intended to be a humorous send up of people from New Zealand. The Board agreed that regardless of whether the viewer is familiar with the recurring dig at New Zealanders relating to sheep, the suggestion that a farmer is having sexual intercourse with animals is blatantly sexual and is not appropriate for a broad audience who could see this advertisement. The Board determined that the advertisement did not depict sex, sexuality and nudity with sensitivity to the relevant audience and that it did breach Section 2.4 of the Code. The Board then considered whether the advertisement was in breach of Section 2.5 of the Code that states: 'Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided'. The Board noted the advertisement uses the sexual phrase 'blow in her face' and although this is a double entendre that could suggest simply to blow air in a woman's face with your mouth, the Board considered that most people would take it as a reference to a sexual act and considered that this is not appropriate for the back of a mobile van and is not appropriate in the circumstances and determined that the advertisement did breach Section 2.5 of the Code. Finding that the advertisement did breach Section 2.4 and 2.5 of the Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION The advertiser has not provided a response to the Board's determination. The ASB will continue to work with the relevant authorities in Queensland regarding this issue of noncompliance.

### Example 3

**Case Number 0557/14**

2 Advertiser **Ultra Tune** Australia

3 Product Automotive

4 Type of Advertisement / media Internet

5 Date of Determination 14/01/2015

6 DETERMINATION **Dismissed**

ISSUES RAISED 2.2 - Objectification Exploitative and degrading - women 2.4 - Sex/sexuality/nudity S/S/N - general

**DESCRIPTION OF THE ADVERTISEMENT** Pop up box on the Ultra Tune website featuring two women leaning against a tyre. The woman on the left is wearing a tight black rubber cat suit with a zipper up the front. The woman on the right is wearing a black rubber dress and is holding a tasselled whip. The text reads, 'We're into rubber now. Ultra Tune now offer a full range of tyres to suit all makes and models.'

**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 concern that the advertisement is offensive and degrading to women and includes scenes that are 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 in order to be in breach of this section of the Code the image would need to use sexual appeal in a manner that is both exploitative and degrading. The Board noted that the image is a static pop-up image featuring two women with their knees resting on a tyre. One woman is wearing a full black cat suit and the other a black dress of shiny appearance (presumably rubber). The image appears on screen when navigating the Ultratune website. The Board noted it had previously dismissed complaints about the television version for the same advertiser in case 0201/14 where: the advertisement featured the two women wearing rubber outfits (one wearing a dress, the other wearing a catsuit) walking into an Ultra Tune workshop where one of the women slams her whip on the counter to attract the attention of the man sitting behind it. The women are seen caressing some car tyres. In the above case the Board considered that 'the depiction of the two women strutting into the workshop portrays the women as powerful and confident and their depiction wearing rubber suits is relevant to the new range of rubber tyres in store and does not amount to a depiction that is exploitative and degrading to women and did not breach section 2.2 of the Code.' Consistent with the decision above, the Board noted that the women appear confident and in control of their actions and that the use of women dressed in rubber outfits and posed in this manner is a humorous reference to rubber suits and tyres and does not amount to a depiction that is considered exploitative and degrading and that it did not 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 for tyres and tyre fitting and that the idea is to draw the attention of the viewer to the tyres. The Board noted that the likely audience for a website for Ultra Tune is adults looking for vehicle related products. The Board noted that the women are posed in a manner that is unrealistic in a humorous way and only mildly sexually suggestive. The Board considered that that an image of this nature is not inappropriate for the intended audience. The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and determined that the advertisement did not breach Section 2.4 of the Code. Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.

### Example 4

**Case Number 0559/14**

2 Advertiser **Crazy Horse Revue** Pty Ltd

3 Product Sex Industry



4 Type of Advertisement / media Poster

5 Date of Determination 14/01/2015

6 DETERMINATION **Dismissed**

ISSUES RAISED 2.2 - Objectification Exploitative and degrading - women 2.4 - Sex/sexuality/nudity S/S/N - general

**DESCRIPTION OF THE ADVERTISEMENT** This poster in the window of the venue features a naked woman lying on her back with stars placed over her nipples. Her pubic region is shadowed so no detail is visible. The text reads,

**'Renee Richardson. [Facebook.com/renee.richardson.show](https://www.facebook.com/renee.richardson.show). [Twitter.com/showrenee](https://twitter.com/showrenee).'**

**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 concern that the advertisement depicts a woman's breasts and that the level of nudity is unnecessary and offensive and unsuitable for display in this manner. 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 in order to be in breach of this section of the Code the image would need to use sexual appeal in a manner that is both exploitative and degrading. The Board noted that this advertisement is a poster in the window of Crazy Horse, an adult entertainment venue, and features an image of a naked woman lying on her back. The Board noted that her genital region is not clearly visible due to shadows and that there are two small black stars placed over the woman's nipples. The Board noted that the venue itself is a gentlemen's club and adult entertainment venue that includes striptease. The Board noted that it is reasonable for the advertiser of a venue of this nature to use images of the women who dance at the venue in a promotion for events that are taking place. The Board noted that although the woman is naked, her nipples are covered by stars and her genitals are not visible due to shadowing over the area. The Board agreed that in the context of an adult entertainment venue the depiction of a woman lying down naked is not exploitative and the image itself does not portray a woman in a manner which is degrading. The Board considered that the advertisement did not employ sexual appeal in a manner which is exploitative and degrading and determined that the advertisement did not 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 woman featured performs or has performed at the venue and considered that the level of nudity was consistent with advertising material for gentlemen's clubs. The Board noted the pose of the woman is sexualised, but that in the context of a product aimed at adults the sexualised content was not inappropriate for the relevant audience. The Board noted that the poster was in the window of the venue and that this meant that it was able to be viewed by a broad audience. The Board considered the premises and area where the premises is located is well known to the broader community and that the area is not an area that children generally are. The Board considered that the promotion was sexualised but maintained a degree of sensitivity (nipples covered and genitals not visible) that made it suitable for the audience and did not breach Section 2.4 of the Code. The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and determined that the advertisement did not breach Section 2.4 of the Code. Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.

**Appendix Three: Recommendations of the Senate Standing Committee Against Sexualisation of Children in the Media and Advertising:**

- 1) The Committee is of the opinion that at least in the interim, the onus to consider the quality of the products that they put before children and the potential for harm that they may embody, shall be imposed on broadcasters, publishers, advertisers, retailers and manufacturers to take account of these community concerns. The committee has viewed sexualisation<sup>12</sup> as a continuum from the explicit targeting of children with images, attitudes and content that inappropriately and prematurely seek to impose a sexual identity on a child, through the presentation of one-dimensional and stereotypical images of children and young people, predominantly girls, in content, products and advertising directed at them, to what might be described as the 'background noise' of society at large where products, advertising and other materials made for and directed at adults are readily accessed by children and reinforce the sexualising messages they are receiving.
- 2) The Committee recommends that the Commonwealth through the National Health and Medical Research Council or other appropriate body commission a major longitudinal study into the effects of premature and inappropriate sexualisation of children.
- 3) The Committee recommends that, as part of its review of the Children's Television Standard (CTS), the Australian Communications and Media Authority consider revising the requirement that CTS content be broadcast for at least half an hour per day to enable broadcasters to schedule it in extended blocks at times which are more likely to attract children to watch it.
- 4) The Committee recommends that broadcasters review their classification of music videos specifically with regard to sexualising imagery.
- 5) The Committee recommends that broadcasters consider establishing dedicated children's television channels.
- 6) The Committee recommends that publishers consider providing reader advice, based on the Office of Film and Literature Classification systems of classification and consumer advice, on magazine covers indicating the presence of material that may be inappropriate for children.
- 7) The Committee recommends that, in 18 months, the Senate review the effectiveness of the operation of the Australian Association of National Advertisers' Code for Advertising and Marketing Communications to Children, introduced in April 2008. [would be worth noting whether this happened or not...]
- 8) The Commissioner recommends that the Advertising Standards Board and Free TV Australia consider establishing a media and advertising complaints clearing house whose functions would be restricted to:
  - Receiving complaints and forwarding them to the appropriate body for consideration;
  - Advising complainants that their complaint had been forwarded to a particular organisation; and
  - Giving complainants direct contact details and an outline of the processes of the organisation the complaint had been forwarded to.
- 9) The Committee recommends that the Advertising Standards Board produce a consolidated half-yearly list of all complaints, including those received by phone, where the impact of an advertisement on children, however described, is a factor in the complaint.
- 10) The Committee recommends that the Advertising Standards Board consider adopting a process of pre-vetting advertisements either (a) at the request of the advertiser where they are concerned that the content of the material may be pushing the boundaries of the codes, or (b) where an advertiser or agency has regularly produced advertising material that has been the subject of complaints.
- 11) The Committee recommends that, to ensure that the Advertising Standards Board is able to make determinations that are in keeping with prevailing community standards, the Advertising Standards Board should develop a formal schedule or process for community consultation, including the use of focus groups, and research to act as a benchmark for board determinations.
- 12) The Committee recommends that the Advertising Standards Board rigorously apply standards for billboards and outdoor advertising to reflect more closely community concern about the

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<sup>12</sup> Ms Gordon in evidence to the Committee noted two important elements of sexualisation:

- sexuality [that] is inappropriately and prematurely imposed on a person such as a child; and
- sexualisation where 'a person's only ascribed value would be their sexuality, their physical sex appeal'.

appropriateness of sexually explicit material and the inability of parents to restrict exposure of children to such material.

- 13) The Committee recommends that state and territory governments, which have the responsibility for education, consider the introduction into all Australian schools of comprehensive sexual health and relationships education programs that are inclusive of both young people and parents, adopting a consistent national approach to the question.