



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0076/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Mossimo</b>
<b>3</b>	<b>Product</b>	<b>Clothing</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Internet</b>
<b>5</b>	<b>Date of Determination</b>	<b>14/03/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheld - Modified or Discontinued</b>

### ISSUES RAISED

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

### DESCRIPTION OF THE ADVERTISEMENT

Facebook and email campaign which encourages people to upload pictures of themselves or to check out Miss Universe Australia in her own Mossimo Peep Show.

### THE COMPLAINT

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

*The message to women in this advertisement is you are valued for your appearance and your ability to sexually arouse men. That's your role in society. The message to men? 'Peeping' at women in their underwear isn't a crime after all stalking is just a bit of sexy fun and women like it. Look how happy Miss Universe is!*

*Through the use of 'peephole' imagery and words like 'strip' on their signage the promotion makes clear reference to the sex industry and voyeurism.*

*According to their terms and conditions Mossimo believes this competition is suitable for users aged 16 and above.*

### THE ADVERTISER'S RESPONSE

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

*Mossimo is a cheeky, irreverent and light-hearted brand! In the same vein, the Mossimo Peepshow Facebook campaign is a cheeky, irreverent, light-hearted and slightly controversial promotion that is consistent with Mossimo Underwear's brand positioning. Like any brand, Mossimo is continuously focused on developing better and more effective ways to talk to and engage its core customers, in this case 16 – 30 year olds. There is plenty of research that demonstrates that social media avenues like Facebook and Twitter have well and truly replaced traditional forms of advertising as the most popular and frequent means of communicating within this demographic.*

*Mossimo believes that the Mossimo Peepshow Facebook app represents the best way to talk to its target audience in a language and a medium with which they are both familiar and use regularly. In this respect, the company believes that is no different to underwear advertisements in catalogues, print or other media channels, which are employed by other brands to 'talk' to their customers. Indeed you could argue that the annual Victoria's Secret Parade which airs on Channel 10 despite being rated PG is far more risqué.*

*People use Facebook to post and publically share photos of themselves all the time. It is one of the most popular functions on Facebook. The Mossimo Peepshow Facebook promotion is not inviting people – and particularly the audience at which it is targeted - to do anything they do not already do on Facebook. The only difference is that the Mossimo Peepshow Facebook app allows to people to put a template frame around each picture.*

*The terms and conditions of the Mossimo Peepshow Facebook promotion clearly state that entries cannot be obscene, illegal or in bad taste that Mossimo has the right to pull any entries that contravene these provisions.*

*Mossimo is satisfied that the Mossimo Peepshow Facebook promotion does not invite or encourage any one to do anything illegal. The promotion does not encourage people to spy on others without their knowledge or consent. Rather it enables people to voluntarily post images of themselves on Mossimo's Facebook page. Pursuant to the terms and conditions, any entries featuring images of people engaging in inappropriate, obscene or illegal behaviour will automatically be removed from the Mossimo Facebook page.*

*Mossimo does not support any activity or behaviour that constitutes sexual discrimination or undermines the rights of women. Mossimo firmly believes that one of the greatest advances of feminism is that has it has given women choice - whether it's the choice to dress the way they want, whether or not to have children, to vote, to work and to have access to the same opportunities as men.*

*Far from being sexist or derogatory to women, the Mossimo Peepshow Facebook promotion allows people of both sexes who feel confident and comfortable doing so, to post a picture of themselves on the Mossimo Facebook page. In doing so they also have the choice of making their submission as sexy or as funny as they choose provided that it is compliant with the terms and conditions of entry.*

*Entry into the promotion is open to everyone - men and women.*

*As with any advertising campaign, Mossimo does not expect that the promotion will find favour with everyone in the community. However, the company respects the right of people to have their own opinion*

## **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 this facebook site is a marketing communication which encourages people to upload images of themselves to create their own ‘peepshow’ and is inappropriate as it uses a theme ‘peep show’ which is linked with adult sex themes including nudity and pornography, is inappropriate as it encourages young people to upload photos of themselves to a website similar to sexting, and encourages ‘peeping’ and voyeurism.

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 facebook site shows images of Australia’s Miss Universe posing in Mossimo Underwear. The Board considered that the images of this woman did employ sexual appeal to model the advertised product. However the Board considered that, despite the peepshow context the woman is posed in a playful manner in lingerie and in the Board’s view is not depicted in a manner that is exploitative and degrading of either men or women generally and did not breach section 2.2 of the Code.

The Board 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 again considered that the image of the Australia’s Miss Universe is not overtly sexualised and that the reference to peepshow was likely to be understood by visitors to the website (which would be likely to be teenagers and older) but, apart from the reference to peepshow itself, did not depict any sexualised images or suggestive material.

In the Board’s view the images were mildly sexually suggestive but not inappropriate for general viewing in a shopping centre and did not breach section 2.4 of the Code.

The Board then considered section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Board noted concerns that the marketing communication facebook page specifically encourages people over the age of 16 to upload photos of themselves to the advertiser’s facebook page.

The Board considered that the advertisement was intended to be an interactive way of engaging the target audience which is identified by the advertiser as 16-30 year olds.

The Board considered that there is significant social concern around appropriate online behaviour and considerable resources are directed to teaching children and young adults about appropriate behaviour in social media. The Board noted the Australian Communications Media Authority's Cybersmart website which provides resources to schools, students and children about safe use of social media. The Board noted that this includes specific information about uploading and tagging photos, particularly those that are provocative or posted by people under the age of 18.

The Board noted that the advertiser's stated terms and conditions explicitly state that entries cannot be obscene, illegal or in bad taste and noted that the images which accompany the directions of how to upload the photos are not sexually suggestive.

The Board considered that an advertisement encouraging people to upload photos of themselves is not of itself problematic.

However the Board considered that the context of this campaign is sexualised – with the 'Peep show' theme and the advertising of lingerie. With regards to the Facebook page the Board noted the Peep Show Gallery which included sample images with, in the Board's view, sexually suggestive titles such as 'Sordid Sammy', 'Minxy Monica', 'Gorgeous Gracie' etc.

The Board considered that visitors to the website would consider the advertisement to be encouraging people – including young teenagers - to upload photos of themselves similar to those in the advertisement – ie: in their underwear and that some people would in fact take that action.

The Board noted it has previously upheld complaints about a website which, in the Board's view, suggested that 'sexting' was legitimate. In particular in American Apparel (0141/10) the Board had stated:

'The Board considered that the overall impression of the images was suggestive of images taken in a person's home and is suggestive of 'sexting' - the practice of, in particular, young people sending explicit photographs of themselves via mobile phones. The Board noted that sexting is an issue of concern in Australian society. The Board considered that the woman appears young and that the issue of sexting is of particular concern where it concerns young men and women and older children. The Board considered that the images of 'Liz' on the website were sexualised and suggestive of 'sexting'. The Board considered that these images were not appropriate considering that the target audience of the advertisement is likely to include young men and women - the same audience considered to be 'at risk' with regards to the issue of 'sexting'. The Board determined that these images did not treat sexuality and nudity with sensitivity to the relevant audience and that the images breached section 2.3 of the Code.'

While accepting the Advertiser's commitment to refusing to publish inappropriate photos, the Board considered it possible that younger people would see the current advertisement as condoning or at least giving some legitimacy to the behaviour of uploading images of themselves in underwear and that this is a message that the community views as unacceptable.

The Board considered that this advertisement depicted material contrary to prevailing community standards on online behaviour and safety and was in breach of section 2.6 of the Code.

Finding that the advertisement breached Section 2.6 of the Code the Board upheld the complaints.

#### **ADVERTISER RESPONSE TO DETERMINATION**

16 March 2012: The Mossimo 'Peep Show' campaign has concluded and therefore all elements have been shut down. The peep show facebook application will be disabled this afternoon.