

BUT SEX SELLS DOESN'T IT? SOME DETAILS ON THE AANA CODE OF ETHICS SEX APPEAL CHANGES

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The Australian Association of National Advertisers (AANA) has announced that a relatively controversial section of the Australian advertising Code of Ethics is being amended. Specifically, Provision 2.2 which is concerned with the use of sexual appeal in advertising. Initially introduced in 2012, the provision is now being amended to broaden its scope. So what is changing, and why?

What is changing?

Provision 2.2 of the AANA Code of Ethics currently reads as follows:

Advertising or Marketing Communications shall not employ sexual appeal:
(a) where images of Minors, or people who appear to be Minors, are used; or
(b) in a manner which is exploitative and degrading of any individual or group of people.

From 1 March 2018, the provision will now read as:

Advertising or Marketing Communications shall not employ sexual appeal:
(a) where images of Minors, or people who appear to be Minors, are used; or
(b) in a manner which is exploitative or degrading of any individual or group of people.

Further, the explanatory Practice Note of the Code of Ethics currently defines "exploitative" as "clearly appearing to purposefully debase or abuse a person, or group of persons, for the enjoyment of others, and lacking moral, artistic or other values." From 1 March 2018, this definition of exploitative will be amended to:

(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.

Why the change?

The AANA has stated that it had taken note of community debate about the use of sexual appeal, both in popular culture and in advertising, and as a result, determined that it could see no logical reason why advertisements deemed by the Advertising Standards Board (ASB) to use sexual appeal in a manner that was exploitative alone should also not be prohibited under the Code of Ethics. The AANA has stated that the change is intended to provide greater clarity to advertisers and to better align to community expectations.

What does this mean for you?

In our view, the changes above mean that the scope of Provision 2.2 will dramatically increase, at least in theory, giving the ASB the remit to apply a greater (and arguably more conservative) standard to the more sexualized end of the advertising spectrum. It is arguable that this is a reflection of changing community attitudes regarding sexualized advertising, but this is unclear.

Currently, in order to be in breach of Provision 2.2, an advertisement must employ sexual appeal in a manner that is both exploitative and degrading, with “exploitative” narrowly defined to refer to depictions that purposely debase or abuse a person for the enjoyment of others.

Once the changes take effect, advertisements that employ any kind of sexual appeal that depicts any person in an objectifying manner, or focus on body parts where there is no direct relevance to the product being advertised, could be caught by the provision, even if the depiction is not necessarily a negative one.

For example, a soft drink ad depicting a group of men competing for the attention of an attractive woman that previously would have been cleared under this provision may now be regarded as in breach.

Further, any advertisement that features attractive models could be caught if the use of the models is not related in some way to the product being advertised, and the models are being objectified by the ad itself (which is often the case). For example, perfume ads that employ the use of super models in sexualised poses or scenarios may also find themselves caught by this provision.

In any case, it remains to be seen how strictly the ASB will interpret and apply this new provision, but this space should be watched carefully once the changes come into effect 1 March 2018.

If you would like further information on the above and how it impacts on your next marketing campaign, please contact one of our experts below.

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