

ANISIMOFF LEGAL ASB BULLETIN – MARCH 2013

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Below are some of the recent interesting ASB decisions that were released over January and February 2013:

1. **0010/13 Domayne - Section 2.6 - Health and Safety - Upheld:** A print ad for Domayne featured in Better Homes and Gardens Magazine depicted a family lounge room with 2 girls sleeping near a Christmas tree. Under the tree were presents, and what appeared to be a row of candles. This attracted a complaint that this was a fire hazard, and was upheld by the Board as follows: "The Board noted the advertiser's response that the candles used in the advertisement are battery operated and considered that this is not clear in the advertisement as the candles are very realistic. The Board considered that the use of candles near sleeping children, wrapped presents and a Christmas tree should not be encouraged due to the potential fire risks and noted that the Advertiser had recognised this and had stated in their response that they would not be using this advertisement again."
2. **0030/13 Tremonti Jewellery - Section 2.2 - Exploitation - Upheld:** A cinema ad for Tremonti Jewellery depicted three women sitting down, with legs visible only but fully clothed. Legs were crossed, until shown jewellery from Tremonti, at which point all their legs opened. The ad can be viewed here: http://www.youtube.com/watch?v=fDpL_PXhnXI&feature=player_embedded. Complaints were raised that this was degrading to women and implied they would "spread their legs" for jewellery. The Board upheld the complaint as follows: "The Board considered that the image depicts the women in a position that is sexually suggestive as their legs are uncrossed only upon seeing the contents of the jewellery box. The Board also considered that the image depicts the women as objects, without heads or faces, which increases the suggestion that the women have no value other than their bodies. The Board considered that the representation of the women as simply pairs of legs was irrelevant to the service advertised. The parting of their legs only upon the revealing of jewellery was considered degrading. The Board considered that the impact of the advertisement as a whole is exploitative of women and is also degrading."
3. **0053/13 Chrysler Australia - FCAI Code and Section 2.4 - Sex - Upheld:** A TVC for Fiat depicted a young man seeing an attractive woman in a black and red dress on the street bending over. She notices him checking her out and approaches him. At first she yells at him in Italian and slaps him, then she begins to act amorously towards him, dipping her finger in his coffee and wiping the foam on his lips, whilst also spilling some on her chest. It is then revealed the young man has imagined the encounter whilst staring at a black Fiat 500 car with red trim. Some dynamic driving footage is then shown. Ad can be viewed here: <http://www.youtube.com/watch?v=siWVgAzhFC8>. Complaints were raised about the explicit nature of the sensual acts of the woman. In relation to the actions of the woman, the Board upheld the complaint as follows: "The Board noted that in one scene the woman scoops foam from the man's coffee and that some of this foam drips on to her chest whilst she uses the remaining foam on her finger to

brush the man's lips. The Board noted that the advertisement does linger on her foam covered chest and considered that this depiction is sexualised. A minority of the Board considered that the scene of the woman chastising and teasing the man, whilst sexualised, treats the sexually suggestive scene in a manner which turns out to be a humorous fantasy and is appropriately sensitive for a PG audience. The majority of the Board however considered that the advertisement depicts a sexualised scene, including slapping, and that this depiction is not sensitive to the PG audience which will include children." The Board also determined the driving footage to be in breach of the FCAI Code as follows: "The Board noted that although there is no verification of the actual speed of the vehicle, the visuals in conjunction with the rapid gear change and roaring of the engine give an impression of speed. The Board noted that when the vehicle performs the ninety degree turn there is a small disclaimer on screen which states, "Professional driver on closed roads". The Board noted that in this scene there is a clear loss of traction and we can see smoke from the tyres as well as hear the accompanying noises consistent with wheel burn. The Board considered that notwithstanding the disclaimer, the overall impression is one of a vehicle being driven in a manner which depicts and condones driving a vehicle at excessive speed in a manner which is unsafe and that there is no context to the change of direction which makes it appear necessary."

4. **0001/13 and 0002/13 Sportsbet - Section 2.4 - Sex - Dismissed (x2):** These two complaints are for the same ad, in two different media (TV and Pay TV). The ad in question is a Sportsbet TVC which depicts a series of sports balls in white mesh sacks, and a reference to Summer being full of "saggy ball sacks" and to then describe a betting offer on certain summer sports. See an example here: <http://www.youtube.com/watch?v=JULI9ASRQJs>. Complaints were raised at the mention of "balls" and were dismissed by the Board as follows: "The Board noted the use of the term 'balls' is a double entendre intended to be humorous. The Board accepted that 'balls' is a common vernacular reference to men's genitals. Some members of the Board expressed concern that the visual image of balls in a bag increased the sexually suggestive tone of the advertisement to a concerning level. The Board noted that the television advertisement was classified with a 'B' and was aired within the appropriate time slots. The Board considered that the double entendre and sexual connotations of the advertisement was suggestive but there was no actual nudity or sexual activity. The Board considered that the sexual references were appropriately sensitive for the mature audience."
5. **0004/13 Freedom Furniture - Section 2.4 - Sex - Dismissed:** This complaint involved a series of TVCs for Freedom Furniture, depicting an older couple spying a younger couple in an adjacent building getting amorous, only to reveal they are more interested in the furniture in their living room. The tagline used is "Whatever turns you on". There were 3 versions of the ad, each a bit more risqué than the next, and each obtained different ratings and was shown in a different time slot. Complaints were raised in regards to all versions, regarding how inappropriate it was to show such "voyeuristic" behaviour. Complaints in regards to all versions were dismissed as follows: "The Board noted the 'W' rated version of the advertisement features a couple kissing and then sitting on their lounge whilst being observed by an older couple whose apartment window overlooks them. The Board noted that the kissing scene is very brief and that the younger couple are fully clothed. The Board noted that the voiceover says, 'whatever turns you on' and considered that this phrase does not necessarily refer to sex as it is commonly used in Australian vernacular to refer to whatever you prefer to do. The Board considered that the overall tone and content of the 'W' rated advertisement

is mild and does treat sex, sexuality and nudity with sensitivity to the relevant audience which could include children. The Board noted the 'PG' rated version of the advertisement features more kissing and the younger couple are shown moving from their lounge to the floor. The Board noted that at the end of the advertisement the younger man is about to remove his t-shirt when he notices that he is being observed by the older couple. The Board noted that no nudity is shown and considered that the suggestion of removing an item of clothing is not inappropriate in this instance. The Board noted that the focus of the advertisement is on the older couple more than the younger couple and considered that whilst this version is more sexualized than the 'W' rated version, its content is still appropriate for viewing by an audience which could include children ... The Board noted the 'M' rated version of the advertisement features more passionate kissing from the younger couple and that they both remove their tops, although the woman keeps her bra on. The Board noted that this version of the advertisement is sexualised and it is clear that the couple are about to engage in sexual activity however the Board considered that the level of nudity and the overall sexual tone is consistent with its 'M' rating and that most members of the community would not consider the advertisement to be inappropriate for an 'M' audience."

6. **0017/13, 0018/13 and 0019/13 Fosters Australia - Section 2.6 - Health and Safety – Dismissed (x3):** A TVC for VB beer (on TV, PayTV and online, done in the traditional style of "you can get it x, you can get it y, matter of fact I got it now" included a scene in which a man in the midst of a home renovation held some nails in his mouth whilst hammering. At the end, there is another scene with 2 men sitting near a trench they have dug, sharing a beer. These scenes attracted complaints that such practices were unsafe. The Board dismissed the complaints as follows: "The Board viewed the advertisement and firstly discussed the image of the man holding the screws in his mouth. The Board considered that although this may not be the preferred manner in which to hold screws, it is a very common behaviour carried out by many tradesmen as well as home renovators in order to make the particular task easier to manage. The Board considered that most reasonable members of the community would consider this behaviour as common practice and that the advertisement is not encouraging or promoting this type of behaviour. The Board then considered the scenes of the men sitting on the edge of the trench. The Board noted that the advertisement is intended to draw the attention of the viewer to the types of hard work and manual labour that encourages a sweat and that after performing these types of tasks a reward is often sought."

If you have any queries in relation to any of the above, please feel free to contact Matt Hansen at matt.hansen@anisimoff.com.au, Heidi Bruce at heidi.bruce@anisimoff.com.au, or Clint Fillipou at clint.fillipou@anisimoff.com.au, or call us on (02) 9460 6611 or (03) 9866 3644.