

<b>COMPLAINT NUMBER</b>	17/395
<b>COMPLAINANT</b>	E. O'Donoghue
<b>ADVERTISER</b>	The Court Theatre
<b>ADVERTISEMENT</b>	Out of home, Poster
<b>DATE OF MEETING</b>	14 November 2017
<b>OUTCOME</b>	Not Upheld

## SUMMARY

The poster advertisement for the play '*Venus in Fur*' at the Court Theatre showed a man and woman from the waist up about to kiss. The woman is wearing a top and the man is topless.

The Complainant was concerned the poster advertisement for the play '*Venus in the Fur*' showed a highly sexualised image that was able to be seen by the general public including children and appeared in close proximity to another advertisement with similar imagery from the AIDS Foundation promoting HIV testing.

The Advertiser said the image used in the advertisement for play '*Venus in Fur*', had sexual connotations but were not at a level that most children would understand, and was not explicit.

The Complaints Board acknowledged the advertisement was provocative in that it showed a passionate embrace but said it did not reach the threshold to offend against generally prevailing community standards or cause serious or widespread offence. The Complaints Board ruled the advertisement was not in breach of Rules 4 or 5 of the Code of Ethics and had been prepared with a due sense of social responsibility required by Basic Principle 4 of the Code of Ethics.

The Complaints Board ruled the complaint was Not Upheld.

### **[No further action required]**

Please note this headnote does not form part of the Decision.

---

## COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider whether the advertisement was in breach of Basic Principle 4 or Rules 4 or 5 of the Code of Ethics. This required the Complaints Board to consider whether the advertisement contained anything which clearly offended against generally prevailing community standards, or was likely to cause serious or widespread offence, taking into account the context, medium, audience and product (including services) and whether the advertisement had been prepared with a due sense of social responsibility to consumers and society.

## **The Complaints Board ruled the complaint was Not Upheld.**

### **The Complaint**

The Complainant was concerned the poster advertisement for the play *'Venus in the Fur'* showed a highly sexualised image that was able to be seen by the general public and specifically children.

The Complaints Board noted the Complainant was concerned about the placement of the Court Theatre advertisement in close proximity to another advertisement with similar imagery from the AIDs Foundation promoting HIV testing.

### **Response from Advertiser, The Court Theatre**

The Advertiser said the advertisement for the play *'Venus in the Fur'* showed an image of "the heads of two adults in close and intense embrace."

The Advertiser said from the perspective of the likely audience, the image in the advertisement "is evocative of the themes of the play but any sexual connotations of the image are not of a level that would be readily understood by most children."

Regarding the nature of the image, the Advertiser responded, "it is not a 'highly sexualised' image as described by E O'Donoghue. It is not exposing, explicit nor salacious. It is not an out of the ordinary image when considering seductive imagery used in various advertising mediums to sell commodities."

The Advertiser also referenced the context of the advertisement is for a theatrical play and was of the view "there is a corollary importance of artistic freedom of expression (which, we acknowledge, may be fettered in appropriate cases, this not being one)."

### **Response from the Media, Phantom Billboards**

Phantom Billboards responded to the concerns of the Complainant about the image on the poster and their concerns about its placement stating, in part: "The woman in the poster is clothed and they're not actually kissing one another. The relationship between the two characters is presumably a key part of the play being promoted, so the use of this image to promote it doesn't strike me as gratuitous or designed to provoke."

In terms of the placement of the two similar images on the same poster bollard, Phantom said this "was unintentional, unfortunate and unhelpful to either campaign. We run hundreds of different poster designs at any one time so it's a little unlucky and perhaps something I should have anticipated. I can appreciate the complainant's point of view and why they'd be feeling that it's a bit too much."

### **Complaints Board Discussion**

The Complaints Board noted the Complainant's concern the image of the man and woman kissing was highly sexualised and could be seen by children.

The Complaints Board noted the advertisement was for a play which featured adult themes and was intended for an adult audience. It said the image was not 'highly sexualised' and disagreed the advertisement depicted a sexual act taking place as suggested by Complainant. The Complaints Board acknowledged the advertisement was provocative in that it showed a passionate embrace but said it did not reach the threshold to offend against generally prevailing community standards or cause serious or widespread offence.

The Complaints Board noted there was a level of risk in using an untargeted medium where an advertisement can be seen by a general audience and in the instance before it, the

combination of two unrelated advertisements which contained similar images created an overall impression for the Complainant. However, when the image and placement of the advertisement before it was considered, the Complaints Board said it did not reach the threshold to be considered to cause serious or widespread offence to most people taking into account the context, medium, likely audience and product.

The Complaints Board ruled the advertisement was not in breach of Rules 4 or 5 of the Code of Ethics and had been prepared with a due sense of social responsibility to consumers and society required by Basic Principle 4 of the Code of Ethics.

Accordingly, the Complaints Board ruled the complaint was Not Upheld.

**Decision:** Complaint **Not Upheld**

---

## **DESCRIPTION OF ADVERTISEMENT**

The poster advertisement for the play '*Venus in Fur*' at the Court Theatre showed a man and woman from the waist up about to kiss. The woman is wearing a top and the man is topless.

## **COMPLAINT FROM E O'DONOGHUE**

I find both adverts offensive because they are:

1. Highly sexualised, and
2. On full public display.

It's evident when you look at each poster that sex is either taking place or about to. I'm concerned young children are being exposed to highly sexualised content (would you like your 4 year old to see this?). This should not be on full public display.

## **CODE OF ETHICS**

**Basic Principle 4:** All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

**Rule 4: Decency** - Advertisements should not contain anything which clearly offends against generally prevailing community standards taking into account the context, medium, audience and product (including services).

**Rule 5: Offensiveness** - Advertisements should not contain anything which in the light of generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services).

## **RESPONSE FROM ADVERTISER – THE COURT THEATRE**

Thank you for affording us with the opportunity to respond to E O'Donoghue's complaint dated 20 October 2017

We do not consider that the relevant "Venus in Fur" advertisement breaches Advertising Codes of Ethics (namely, Basic Principle 4, Rule 4 and Rule 5 as cited in your letter).

- We prepared the advertisements with the requisite due sense of social responsibility to consumers and to society.
- Further, the advertisement meets decency standards and while it may have offended E O'Donoghue, it is not offensive to generally prevailing community standards.

The image is of the heads of two adults in close and intense embrace.

For adults, the image is evocative of the themes of the play but any sexual connotations of the image are not of a level that would be readily understood by most children.

Further it is not a "highly sexualised" image as described by E O'Donoghue. It is not exposing, explicit nor salacious. It is not an out of the ordinary image when considering seductive imagery used in various advertising mediums to sell commodities.

We ask that the Complaints Board takes into consideration that the advertisement is for a theatrical play and that there is a corollary importance of artistic freedom of expression (which, we acknowledge, may be fettered in appropriate cases, this not being one).

### **RESPONSE FROM MEDIA – PHANTOM BILLSTICKERS**

I considered both of these images prior to the campaigns running.

I didn't feel that either was beyond the bounds of decency (and the test I run is exactly along the lines of what the complainant states - "would I want my children to see this").

The Court Theatre campaign has run throughout Christchurch and the HIV Testing campaign has run in several cities nationwide.

I didn't anticipate any issues arising with the Court Theatre poster.

The woman in the poster is clothed and they're not actually kissing one another. The relationship between the two characters is presumably a key part of the play being promoted, so the use of this image to promote it doesn't strike me as gratuitous or designed to provoke.

I am less surprised to get a complaint about the HIV Testing poster as some of the public find same sex contact offensive.

However the men in the poster are both wearing trousers and they're not behaving indecently; kissing is generally deemed acceptable public conduct, as is going without a shirt for men.

The Public Good promoted by this poster (Testing enabling safer behaviour and proactive treatment preventing the spread and harm caused by HIV) is in my view considerable we therefore considered it well worth giving people pause to stop and consider.

The placement of the two images on the same poster bollard was unintentional, unfortunate and unhelpful to either campaign.

We run hundreds of different poster designs at any one time so it's a little unlucky and perhaps something I should have anticipated.

I can appreciate the complainant's point of view and why they'd be feeling that it's a bit too much.

I'd be happy to answer any other questions on this matter.