



Case Report

1	Case Number	0437/12
2	Advertiser	ACP Publishing Pty Ltd
3	Product	Entertainment
4	Type of Advertisement / media	Internet - Social
5	Date of Determination	14/11/2012
6	DETERMINATION	Upheld - Modified or Discontinued
7	Date of reviewed determination	13/02/2013
8	Determination on review	Upheld-M

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 2.3 - Violence Causes alarm and distress
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

Zoo magazine have posted images of women on their Facebook page and invited comments on the images. One image is of a woman split in half and the question is, "Left or right? But you have to tell us how you came to that decision". The comments underneath contain comments about women's body parts as well as obscene language and sexual references. Another image is of a woman wearing a bikini and holding a copy of Zoo magazine and the comments make reference to her body and appearance. A third image is of a woman's bottom. She is lying on her stomach and the focus is on her underwear which is white and has the Nintendo logo. The question underneath the image is, "What would you call this console?" and the comments include obscene language and sexual references. Other material on the Facebook site includes images of a woman's boobs advertising Zoo magazine's "Boobipedia".

THE COMPLAINT

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

The image is sexually objectifying as the woman is presented not as a whole person, but reduced to her sexual body parts, in this case, her backside. Zoo encourages its young male market to comment as to how they would use this woman's body for their own sexual gratification. It demeans and degrades women.

The image, disturbing nature of having a disembodied woman and the offensive, clearly sexist and even abusive nature of some responses on a page being used to advertise this product should not be allowed.

Both the pictures, the questions that are posed and the responses are regularly demeaning and unacceptable to women. Women are objectified and sexualised. Being on Facebook, the content is open for young people to see.

This advertisement, both the inducement by Zoo magazine to comment on their degrading image, and the comments they allowed from their readership on the image were vile and degrading toward women, de-humanizing and disgraceful. I was extremely offended by their posting of the image, their provocation to get readers to respond and the behaviour and utter bile that their commenters posted. Unacceptable in every way.

THE ADVERTISER'S RESPONSE

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

The complaints you have received in relation to reference No 0437/12 are not reflective of the target audience demographics' opinions . (for your reference since 2006, ZOO Weekly has transformed the men's magazine marketplace and now reach over 1.2 million readers in print and 300,000 unique users online). The posts in question were also all editorial material posted by the editorial team, speaking to a group of fans who are already familiar with the content they have chosen to follow ZOO for. This again confirms my opinion that the material in question is neither advertising nor marketing in any form.

The readership of the magazine is clear on why they buy the magazine, log onto our website and follow us on social media – it is to find regular, accessible content (not dissimilar to that which they obtain each week in the editorial pages of our magazine) and to be able to engage with that material in a 'tongue in cheek' manner. There are enough other sources of news, sport, fashion, topical conversation etc available for men today to follow, their choice of ZOO magazine is for a purpose - to engage with content that doesn't require too much thought. All subjects are treated in the same manner – with all content being posted in a way that engages followers to poll their opinion via the like buttons and share buttons. ZOO readers have never claimed to be "deep" in their communications with the brand nor do they expect the content posted to be in any way thought provoking beyond voting whether they like one of the options presented or the other. All our editorial content is (in magazine, online or through social media) intended to be funny, topical and easy to respond to without judgement.

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 the advertisement is sexist in its portrayal of women, presents women in a manner which is objectifying, features sexualised imagery and language which is sexualised and inappropriate.

The Board noted the advertiser’s response that they believe their Facebook pages contain material which is editorial. Consistent with its decision in Fosters (0271/12) the Board considered that an advertiser’s facebook page is a marketing communication over which the advertiser has a reasonable degree of control and that the facebook page is created by the advertiser to draw the attention of a section of the public in a manner calculated to promote the advertiser or its products. The Board determined that material monitored and controlled by advertisers on their own internet pages does fall under advertising and marketing communications within the definition used in the Code and must therefore comply with the requirements of the Code.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement was in breach of Section 2.1 of the Code. Section 2.1 of the Code states: “Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of...gender...”

The Board noted that there were a number of Facebook pages which were complained about: an image of a woman cut in half with the question “Left or Right? But you have to tell us how you came to that decision”, an image of a woman’s bottom wearing white underpants with the word “Nintendo” written across the back and the question, “What would you call this console?”, an image of a woman taking a photograph of herself wearing a bikini and holding a copy of Zoo magazine, an image of boobs with the corresponding title of “boobipedia”, and images of women wearing bikinis inviting users to comment on which bikini looks best.

The Board first considered the image of the woman cut in half and the question that the advertiser had chosen to accompany the image. The Board considered that the image posted by Zoo with the accompanying question ‘left or right’ objectified women and presented the women in a demeaning manner. The Board also considered that the comments posted underneath the image include language which treats women in a manner which is demeaning and inappropriate. The Board noted that these comments were invited by Zoo magazine by the question of “left or right?” and considered that Zoo magazine has a duty to moderate the responses in keeping with community standards. In the Board’s view the post by the advertiser of the image and accompanying caption itself discriminated against women and

that some of the comments posted underneath this image were also discriminatory towards women.

The Board considered the image of the woman wearing Nintendo underpants accompanied by the advertiser's question "What would you call this console?". The Board considered that this image and question presented women as an object (in this case a game console) and in a demeaning manner to the extent that the image and accompanying question can be said to discriminate against women. The Board also considered that some of the user generated comments contained language which is discriminatory towards woman.

The Board noted the image of the woman taking the photograph of herself and the images of women in bikinis and the 'boobipedia' page and considered that these images do not of themselves amount to images which would be considered discriminatory as the women are featured in a manner in which they are presented as attractive women not purely as objects.

Based on the above the Board determined that the advertisement did present material which discriminates against women and did breach Section 2.1 of the Code.

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."

As discussed above, the Board considered that the image of the woman cut in half reduces the woman to an object and that the corresponding question inviting users to comment on which half of the woman they would prefer further reinforces this objectification. In the Board's view this image is exploitative and degrading and does breach Section 2.2 of the Code.

The Board noted the image of the woman wearing the Nintendo underpants and considered that this image compares a woman to a games console and that this is an image which is also exploitative and degrading and in breach of Section 2.2 of the Code.

The Board noted the remaining images of women in bikinis and the close up image of the breasts advertising the Boobipedia and considered that these images are exploitative but not degrading.

For the reasons outline above, the Board determined that the abovementioned elements of the website did 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 noted the complainants' concerns that the advertisement features images of woman in sexualised poses wearing minimal clothing. The Board noted the context for the

advertisement and considered that it is not inappropriate for a magazine aimed at young men to contain an advertisement with images of women provided they are not overtly sexualised, presented in an exploitative and degrading manner or feature inappropriate nudity. The Board noted that all the women featured in the advertisement are wearing clothing which covers their private areas and considered that whilst some of the poses are sexualised they are not inappropriate for the intended and likely audience.

Based on the above the Board determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

The Board considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.”

The Board noted the advertiser had invited comments from the Facebook users on the images posted on the pages and considered that in the Board’s view, the advertiser is inviting comment that is likely to include strong language.

The Board considered that the use of obscene language (“...fuckin hard”, “...fuckin genius”, “...who fuckin cares”) is not appropriate even taking into account the medium and the target audience and determined that the advertisement did breach Section 2.5 of the Code.

Finding that the advertisement breached Sections 2.1, 2.2 and 2.5 of the Code, the Board upheld the complaints.

ADVERTISER RESPONSE TO DETERMINATION

We consider that the Board has erred in its determination that the relevant content – being editorial content published on the Zoo Facebook page and user generated responses to that content – constituted “Advertising or Marketing Communications” for the purpose of the Advertiser Code of Ethics.

In reaching its determination, the Board referred to its decision in Fosters (0271/12). While we do not concede that the Fosters decision involved an appropriate application of the Code, we note that the Fosters decision was based on a very different set of circumstances. In particular, Fosters produces products and principally uses media, including social media, to encourage consumers to purchase those products. In contrast, we are a media organisation that publishes content across multiple platforms, including print, websites, social media and mobile devices. To describe Zoo’s Facebook page as a “marketing communication” is to misunderstand the nature of modern media organisations and the way in which they use social media to engage with their audience. Zoo’s Facebook page, like its website and the associated magazine, is a publishing platform comprising of editorial content supported by some advertising content. The content complained of was clearly editorial content and its

publication on a Facebook page does not alter that characterisation.

We constantly review our editorial policies, including those relating to moderation of and guidelines for user generated content, and will continue to do so.

INDEPENDENT REVIEWER'S RECOMMENDATION

This is an application for review of a decision of the Advertising Standards Board (the Board) relating to an advertisement consisting of Facebook pages by the Advertiser Zoo Magazine/ACP Publishing (now Bauer Media Ltd).

The Facebook page advertisement in question is one of a number of Facebook pages which appeared on Zoo's Facebook website and were originally the subject of 18 complaints to the Board.

The Facebook page which is the subject of this application for review is described in Case Report 0437/12 as follows:

"Another image is of a woman wearing a bikini and holding a copy of Zoo magazine and the comments make reference to her body and appearance."

The original complainants claimed that the Facebook pages comprising the Zoo advertisement raised issues which are addressed by the Advertiser Code of Ethics (the Code).

Determination of Board

The Board considered the advertisement/Facebook pages under Section 2 of the Code, specifically sections 2.1, 2.2, 2.4 and 2.5. On 14/11/12 the Board upheld the complaints and found that the Facebook pages complained of breached Section 2 of the Code, in particular Sections 2.1, 2.2 and 2.5 of the Code. The Board found no breach of Section 2.4 of the Code.

Review Application

The complainant sought review of the Board's decision. The complainant states:

"There was a substantial flaw in the Board's decision: the Board did not make a ruling on Section 2.6 regarding invitation to upload sexualised images."

The complainant quotes from her original complaint:

"Zoo magazine is soliciting young women to send in sexualised images of themselves. This is irresponsible and may have serious consequences for the girls and women who participate.

Sexting and its results is a huge problem for young people, one the government is trying to educate young people on. Zoo undermines these efforts by encouraging girls to send in sexy pics to be uploaded to the internet, where they no longer have control of them. They may end up on porn sites or be saved and shared by many people.”

The complainant continues in her request for review:

“In reaching a determination, the Board considered several codes that may have been violated. One of the codes raised was section 2.6, Health and Safety within prevailing Community Standards, however, the document concluded with no ruling on this matter.”

Both the advertiser and original complainants were invited to comment on the request for review.

The Advertiser responded by reiterating its comments in response to the original complaints, that the Advertiser does not consider that the relevant content constitutes “Advertising or Marketing Communications”. The Advertiser indicated that it did not consider that the relevant content is subject to the AANA’s Advertiser Code of Ethics. The Advertiser claimed that the content is editorial content.

Three of the original complainants responded supporting the request for review based on the failure of the Board to consider Section 2.6 of the Code. Two of these responses refer to previous cases in which the Board considered Section 2.6 (Mossimo -0076/12 and Bendon/Loveable – 0376-12).

INDEPENDENT REVIEWER’S RECOMMENDATION

It appears the complainant is making the review request on the basis that the Board had not considered all relevant parts of Section 2 of the Code, thus creating a substantial flaw in the determination of the Board.

The ASB procedures manual and its website contain the following information about the Review Process:

7.1 Request for review of Board decision

An original complainant, in relation to a complaint dismissed within the previous month, or the advertiser, in relation to a complaint upheld within the previous month, can ask for a review of the Board’s decision on that advertisement when first decided.

7.6 Request for review only from complainant(s) or advertiser

Requests for a review of decision will only be accepted from the original complainant(s) (where the complaint is dismissed) or advertiser (where the complaint is upheld).

Neither 7.1 nor 7.6 of the ASB procedures manual covers the present situation, i.e. where the original complainant raises a number of issues in her complaint and some are upheld but another issue raised is claimed not to have been considered at all by the Board. Given the procedures manual is silent on this set of circumstances the Reviewer is of the opinion that the complainant should be given the benefit of the situation and that her request for review should be accepted.

The grounds on which a decision of the Board may be reviewed are:

1. Where new or additional relevant evidence which could have a significant bearing on the determination becomes available. An explanation of why this information was not submitted previously must be provided.
2. Where there was a substantial flaw in the Board's determination (determination clearly in error having regard to the provisions of the Code, or clearly made against the weight of evidence).
3. Where there was a substantial flaw in the process by which the determination was made.

There was no new information provided in the application for review and accordingly the complainant does not satisfy the requirements of ground (1).

The complainant does not claim that there was a substantial flaw in the process by which the determination was made and no evidence to support such a claim was provided. Accordingly, the complainant does not satisfy the requirements of ground (3).

The basis for appeal on which the complainant relies is that the Board, in its determination, failed to consider all relevant sections of the Code. In particular, the complainant claims the Board should have considered Section 2.6 of the Code and failed to do so. In her original complaint and in her request for review, the complainant makes a detailed argument for why the Facebook page in question breaches Section 2.6 of the Code. Section 2.6 states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The complainant raised issues in her original complaint which she claims fall under Section 2.6 of the Code, Health and Safety. In her original complaint she also specifically notes previous Board decisions in Mossimo (0076-12) and Bendon/Loveable (0376-12) in which breaches of Section 2.6 were found by the Board in very similar circumstances to the present subject of review. In both cases online viewers were invited to upload images of themselves in underwear to the website of the advertiser

The obligation of the Board is to consider complaints under all relevant Codes. It is not a requirement that a complainant must identify the precise section of a Code that they claim has been breached. Considerations are not limited to issues raised by the complaint.

Section 4 of the Procedures Manual at 4.3 states that Board members will consider, inter alia:

“all relevant provisions of the Codes and Initiatives”

It is clear from 4.3 above that the Board is required to consider all relevant provisions of the Code. The complainant raised an issue in her original complaint which is relevant to Section 2.6 of the Code. Further, in that original complaint, the complainant referred to two very similar previous determinations of the Board under Section 2.6 (Mossimo and Bendon/Loveable). In addition, the Case Report for this case, on page 1, under “Issues Raised” clearly identifies “2.6 –Health and Safety within prevailing Community Standards” as one of the issues raised along with sections 2.1, 2.2, 2.4 and 2.5. However, the Board, in its determination did not consider Section 2.6 at all and it is not mentioned, even in passing, in the determination.

General administrative law principles state that all issues raised by a complainant should be dealt with unless a matter is so trivial that it does not warrant attention. That is not the case in this instance and Section 2.6 is clearly identified as an issue raised by the Case Report. If the Board took the view that it was upholding the complaint on other grounds and that therefore they did not deem it necessary to consider additional grounds, the Board should still have made it clear that this was their position. All issues raised should be considered, even if only to dismiss an issue on its merits.

In summary, it is incumbent on the Board to indicate in its Determination that it has considered the complaint(s) ‘under all relevant provisions of the Code and initiatives’. In this case Section 2.6 of the Code is relevant to the advertisement in question. By failing to ask itself whether Section 2.6 of the Code had been breached, the decision of the Board is fundamentally flawed as provided for in appeal ground (2).

Accordingly, I recommend that the Board reconsider its decision and determine whether Section 2.6 of the Advertiser Code of Ethics has been breached by the advertisement. In reaching its conclusion it should take into account the matters set out by the complainant in her appeal document.

DECISION OF THE ADVERTISING STANDARDS BOARD FOLLOWING REVIEW

The Board noted the recommendation of the Independent Reviewer that it reconsider its decision and determine whether Section 2.6 of the AANA Code of Ethics has been breached by the advertisement and also the recommendation that the Board, in considering this issue, take into account the matters set out by the complainant in her appeal document.

The Board noted the matters set out by the complainant:

- That Zoo magazine is soliciting young women to send in sexualised images of themselves
- That Zoo's request is irresponsible and may have serious consequences for the girls and women who participate
- That sexting and its results is a huge problem for young people and that governments are trying to educate people about this
- That Zoo undermines government efforts to educate young people
- That in Mossimo (0076/12) the Board had upheld complaints on the basis that the advertisement's depiction of peep show themed material was contrary to prevailing community standards on health and safety
- That in Bendon (0376/12) the Board similarly determined that young people would see the advertisement's encouragement to upload images as condoning or giving legitimacy to the behaviour of uploading images of themselves in underwear and that this is a message that the community views as unacceptable
- That KidsHelpline recently stated 'in a three month period, around 500 counselling sessions were offered to kids with sexting –related concerns.
- That the ASB is aware of the social concern regarding sexting.

The Board also noted similar issues were raised by one or more of the other complainants.

The Board noted additional comments in support of the complainant's request for review provided additional commentary on the same issues with one of the additional comments referring the Board to the Children and Young Person's (Care and Protection) Act 1988 and the Crimes Act 1900 (NSW). The Board noted the Crimes Act refers to particular offences relates to people under (or appearing to be under) the age of 16 and that the Act defines a 'child' as a person under 16 years and a 'young person' from 16 to 18 years.

The Board noted that the target audience for Zoo Magazine is men aged 18 – 34 (http://www.bauer-media.com.au/zoo_weekly.htm">http://www.bauer-media.com.au/zoo_weekly.htm). The Board also noted the readership profile of the magazine but noted that this did not necessarily relate to the profile for the Facebook site.

Readership

Population 000's Magazine

All people

Men 49.3%	249	77.1%
Women 50.7%	74	22.9%

All People

Population	000's	Magazine	
Age			
14-17	28	8.8%	6.1%
18-24	115	35.7%	11.8%
25-34	102	31.6%	17.3%
35-49	54	16.6%	25.5%
50+	24	7.3%	39.1%

http://www.bauer-media.com.au/zoo_weekly.htm">http://www.bauer-media.com.au/zoo_weekly.htm

The Board considered the information posted by Zoo on the Facebook site which was the subject of this part of the original complaint and the subject of the request for review and noted that this material consisted of an image of a young woman in a bikini standing in front of a mirror having taken a photo of herself with her phone holding a Zoo Magazine accompanied by the text 'Erin says good morning. Send hot pics of you and a Zoo to zoofan@zooweekly.com.au.'

The Board considered that the suggestion of sending 'hot pics' is inviting women to send a picture which would be sexualised or at least attractive to the target audience.

The Board considered the audience of the images which is primarily a male audience over the age of 18. The Board noted that some of the magazine readership included people between the ages of 14-18 and, although not provided with any information about the demographic of the Zoo Facebook site, assumed that some of the friends of the Zoo Facebook site would be people over the age of 13 but younger than 18. However the Board considered that the content and nature of the facebook site and the publication Zoo Magazine is very clearly targeted to an older teen and male audience (18-35 yr olds).

The Board noted that it is not illegal to ask people to send photos of themselves to an advertiser, nor is it illegal (generally) for the advertiser to upload images that people have sent in. The Board also noted that it is not illegal for consenting adults to send images of themselves to a company.

The Board then considered whether the invitation to send images is depicting material that is contrary to prevailing community standards on health and safety.

The Board agreed that there is a strong message to the community that children and young people should avoid 'sexting' and should exercise great caution in sending images of themselves to any other person.

A minority of the Board considered that this invitation to the Zoo Magazine Facebook community is inconsistent with message to young people regarding sending sexualised images of themselves to other people or posting them on the internet.

The Majority of the Board however considered that a message on the Zoo Facebook site is a message to a specific and limited audience and that the target audience is males over the age of 18 who are friends of the Facebook site. The Board considered that because of the specific nature

of this website, and the older audience, that such an invitation is not contrary to prevailing community standards around safe use of social media.

The Board considered whether this approach is consistent with previous determinations. The Board noted its decision in Mossimo (0076-12). That case involved a clothing Facebook page inviting friends to enter a competition by uploading images of themselves. In that case the Board determined that:

'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'.

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.’

In another case, Bendon (0376/12), the Board considered a Facebook page for Bendon underwear which asked people to send photos with their ‘besties’. In that case the Board:

‘The Board noted the advertisement encourages members of the community to upload photographs with their “Besties” and that the competition is open to Australian residents over the age of 13 years. The Board noted that the advertisement states, “...you don’t have to be in your undies...obvs” and considered that this phrase suggests that although you don’t have to, you can send in photographs wearing undies. The Board noted that the advertisement was intended to be an interactive way of engaging the target audience which is identified by the advertiser in the advertisement as women over the age of 13 years and considered that the language used (“obvs”) is intended to appeal to teenagers. The Board noted 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 state that entries cannot be indecent, offensive, inappropriate or objectionable and that parental or legal guardian consent is

required for entrants under the age of 18 years. The Board considered that an advertisement encouraging people to upload photos of themselves is not of itself problematic. The Board noted the advertiser's response that entrants are being invited to submit photographs of themselves with their best friend, "bestie", however the Board noted that the invite states, "take selfies with loveable besties" and considered that this phrase could also be interpreted as encouraging entrants to take a photograph with their loveable besties underwear.

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 noted that it has consistently held the view that an advertisement encouraging people to upload photos of themselves is not of itself problematic. Therefore the decision of whether or not such communications breach section 2.6 of the Code is a matter to be decided on the basis of each particular marketing communication complained about.

The Board considered that both Mossimo and Bendon are brands that are of significant appeal to young women and that the marketing communications referred to in those cases were, in the Board's view, likely to send a message condoning sending images in your underwear (in the case of Bendon) or in a sexualised context (in the case of Mossimo's 'peep show') to a broad audience which would not otherwise expect sexualised material from such advertisers and which will most likely include young women and young teenagers (13 and over).

Considering the image and invitation posted by Zoo Magazine, the Board considered that there will certainly be people in the community who do not like the images, content or approach of Zoo magazine. However the Board considered that the magazine and its Facebook site are legally permitted, that images of women in bikinis are not of themselves necessarily inappropriate and that the Zoo Magazine Facebook community is familiar with the likely content of that Facebook site.

The Board noted that its role is only to consider whether or not an advertising or marketing communication depicts material contrary to prevailing community standards on health and safety. In the view of the majority of the Board, the invitation is an invitation to women who are part of the Zoo Magazine community to send a 'hot pic' to the Zoo Magazine email address for posting on the Facebook site and that this is an invitation to a primarily adult audience. In the Board's view this invitation is not a depiction or material which is contrary to prevailing community standards on safe behaviour on the internet.

The Board determined that the material did not breach section 2.6 of the Code. Noting that the complaints had been upheld on other grounds (breaches of section 2.1, 2.2 and 2.5), the Board affirmed its previous decision to uphold complaints.

The Board also noted the complainant's concern that the Advertising Standards Bureau had advised the complainant (on 9 January 2012) that her complaint is not related to advertising or marketing communications but rather is an invitation to model for the magazine. The Board noted that the complainant had quoted a response from the Advertising Standards

Bureau to a different complaint made by the complainant and that this particular information in her request for review was not relevant to the case under consideration.