



**Ad Standards** Community Panel  
PO Box 5110, Braddon ACT 2612  
P (02) 6173 1500 | F (02) 6262 9833

**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

## Case Report

1	<b>Case Number</b>	<b>0119/18</b>
2	<b>Advertiser</b>	<b>Advanced Medical Institute</b>
3	<b>Product</b>	<b>Sex Industry</b>
4	<b>Type of Advertisement / media</b>	<b>Radio</b>
5	<b>Date of Determination</b>	<b>11/04/2018</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

### DESCRIPTION OF THE ADVERTISEMENT

This radio advertisement has two versions.

The first states: "Cupid never shoots his arrow too fast. Try to enjoy the ultimate 'Valentine's Day love-fest' with longer lasting sex. Try AMI's mouth fresh oral strips. Longer lasting sex this Valentine's Day."

The second states:

"Apparently in the time it takes to read this ad, up to 30% of men will have 'finished' in the bedroom with her. Try to sort it out, try AMI's mouth fresh oral strips. And enjoy longer lasting sex ..."

### THE COMPLAINT



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

*It can give the impression of men one-by-one having sex with a female, and that seems too close an association with gang raping. Obviously the ad objectifies women, can indicate to anyone one listening that what sex life could be about, sends a message to men/boys that this is normal behaviour.*

*While AMI may squirm around it saying that what the ad says is none of those things, the inference can be too easily taken from the ad.*

*I am a psychologist and have heard many things during my years of practice, yet I felt sick to my stomach and angry upon hearing the ad. We know that AMI are renowned for pushing the boundaries.*

*The ad was aired at an inappropriate time of the day and young children/teenagers may be exposed to the inappropriate content. Similar ads by AMI had previously been deemed as inappropriate for airing on radio. <https://mumbrella.com.au/ad-watchdog-rules-ami-ad-saying-radio-appropriate-medium-270942>*

#### **THE ADVERTISER'S RESPONSE**

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

*We understand that the issues raised in relation to this advertisement relate to section 2 of the code.*

*Based on past decisions made in relation to AMI, we understand that the core sections of the code which are relevant are:*

*1. section 2.1 of the code which requires that the advertisement not contain material which discriminates against or vilifies a person;*

*2. section 2.4 of the code requires advertisements to treat sex, nudity and sexuality with sensitivity to the relevant audience and the relevant programme time zone;*

*3. section 2.5 of the code requires advertisements and/or marketing communications to only use language which is appropriate in the circumstances and to not use strong or obscene language; and*

*4. section 2.6 of the code which requires that advertisements not depict material which is contrary to prevailing community standards on health and safety.*

*Please let us know if the Panel intends to consider any other section of the code so that we are afforded a reasonable opportunity to make submissions on the matter as*



*it is our present understanding that no other section of the code is relevant to these advertisements. Without limiting the foregoing, we note that the communications are not directed to or targeted at children. We accordingly submit that the ASB's code in relation to advertising and marketing material relating to children is not relevant to this advertisement.*

*We note that the advertisement does not contain any discriminatory or derogatory language. On the contrary the language is positive and encouraging.*

*We accordingly submit that the advertisements do not infringe section 2.1 of the code in any way.*

*The advertisement does not contain any statements which are factually inaccurate or which involves any dangerous activities. We accordingly submit that the advertisements do not infringe section 2.6 of the code in any way.*

*Section 2.4 of the code requires advertisements to treat sex, nudity and sexuality with sensitivity to the relevant audience and the relevant programme time zone.*

*Section 2.5 of the code requires that advertisements not contain strong or obscene language and that advertisements use language which is appropriate in the circumstances. The advertisements do not contain strong or obscene language. To the extent that section 2.5 of the code is considered to have a broader application than coarse or obscene language the submissions relating to section 2.4 also apply to section 2.5.*

*AMI is a high profile and well known radio advertiser. It has been one of the largest radio advertisers in Australia for the last 15 years with the business frequently being rated as a top 5 radio advertiser in each capital city during many of the weekly ratings conducted during this time. AMI's extensive profile of using radio advertising to promote its treatment options is well known in the community and the likelihood that an AMI advertisement would be heard if a consumer listened to a particular radio station would not be any surprise to members of the public given AMI's longstanding and well established public profile of advertising on particular commercial radio stations.*

*AMI's advertising is confined to certain radio stations with those radio stations being selected on the basis of their demographic audience and the level of enquiry generated by advertising on the relevant station. In this respect we note that AMI owns more than 100 toll free telephone numbers and uses different telephone numbers for each station. AMI also uses call counting software licensed to it by one of Australia's leading telecommunications companies. This system and technology enables AMI to track whether its advertising is effective and has been aimed at the correct target audience.*



*In terms of the advertising on particular stations, each of the radio stations used by AMI have restrictions regarding the nature of the advertisements which may be run on those stations as well as time restrictions as to when those advertisements may be run. Those restrictions have been developed by the program director and are in addition to restrictions applicable under the code. For example, NOVA and AUSTereo do not permit the use of phrases like “bonking” and so on during breakfast (6am to 9am) and kids pick up time (2:30pm to 4pm).*

*At these times AMI’s advertising is confined by these stations to the use of softer terms such as “making love” and so on. These restrictions have been developed by the relevant program directors as a result of complaints received by them in relation to AMI advertisements and based on the program directors assessment of the nature of advertising which they believe is appropriate having regard to their station, the program time zone and the target audience for that station and program time zone.*

*This particular advertisement is only broadcast in the evening after 7pm. These times have been selected to avoid key drive times (like weekday mornings and weekdays prior to 7pm) when children are more likely to be in the car. Broadcasts are also only being made on stations which have traditionally run AMI advertisements.*

*Whilst AMI acknowledges that some members of the community do not like AMI’s advertisements, we believe that the advertisements comply with the code by treating sex and sexuality sensitively having regard to the relevant audience and the relevant programme time zone. As set out above, more confronting advertisements are restricted by relevant stations to time zones when children are less likely to be listening with softer advertisements being run in those times.*

*As you are aware, AMI has previously commissioned an independent market research report from Galaxy Research on these types of issues, a copy of which has previously been provided to you. Galaxy Research is an independent Australian marketing research and strategy planning consultancy. Galaxy Research’s credentials are widely recognised and it is the polling organisation of choice for The Daily Telegraph, The Sunday Telegraph, Herald Sun and The Courier Mail. Galaxy Research are also the most frequently quoted source of PR survey information in Australia and Galaxy Research has earned an enviable reputation as the most accurate polling company in Australia, stemming largely from their election polls. The scope and methodology used by Galaxy Research in undertaking the report was determined independently by Galaxy Research. As you will see from Galaxy Research’s report:*

- 84% of Australian adults do not find the word “sex” offensive in the context of advertising products which treat sexual health problems;*
- 68% of Australians do not find the phrase “want longer lasting sex” offensive in the*



*context of advertising products which treat sexual health problems. This phrase has become synonymous with AMI and respondents to the survey would have been well aware of this connection in responding to the survey; and*

*- 51% of Australians believe the phrase “want longer lasting sex” should be permitted on billboard advertisements for products which treat sexual health problems. Billboards are considered to be the most invasive form of advertising as billboards are unable to be switched off and the report provides clear evidence that significantly more than 50% of Australian adults have no problems with AMI’s TV or radio advertising.*

*While this advertisement uses the term “sex”, it does so in a positive and non-confrontational way and, as set out above, most Australians do not find this term offensive. In addition, AMI believes that the phrases used in this advertisement are less confronting than other phrases used by AMI in other advertisements which have been found by the board to be in compliance with the code (e.g. the phrase “do it like an animal” which was used in 162/10).*

*In the circumstances we submit that the advertisements treat sex and sexuality appropriately having regard to the relevant timeslot. However, in the event a significant portion of the community disagrees with AMI’s assessment that the phrases are not offensive then it is likely that such difference of opinion will result in a large number of complaints being made to the relevant radio stations with the stations then contacting AMI and asking it to change its advertising. We note that this has not occurred.*

*The choice of radio stations by members of the public is voluntary and the prevalence of AMI’s advertising on certain stations is well known. If particular members of the public do not want to listen to AMI advertisements then they have the option of selecting alternate stations.*

*For each of the reasons set out above we submit that the advertisement does not breach section 2.4 or section 2.5 of the code.*

## **THE DETERMINATION**

The Ad Standards Community Panel (“the Panel”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Panel noted the complainants’ concerns that the advertisement contains inappropriate sexualised content which is not suitable for children to listen to, and shows a close association with gang rape.

The Panel noted there are two versions to this advertisement. Version A states:



"Cupid never shoots his arrow too fast. Try to enjoy the ultimate 'Valentine's Day love-fest' with longer lasting sex. Try AMI's mouth fresh oral strips. Longer lasting sex this Valentine's Day".

Version B states: "Apparently in the time it takes to read this ad, up to 30% of men will have 'finished' in the bedroom with her. Try to sort it out, try AMI's mouth fresh oral strips. And enjoy longer lasting sex ..."

The Panel listened to each version of the advertisement and noted the advertiser's response.

The Panel 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 Panel noted this radio advertisement for a sexual dysfunction medication features references to premature ejaculation.

The Panel noted that the product is a sex related product and considered that it is reasonable for the advertisement to make reference to sex, although the medium in which the advertisement is broadcast will affect whether or not the sexual references are appropriate.

The Panel noted the advertisement makes two references to premature ejaculation and one reference to longer lasting sex.

The Panel noted it had previously dismissed similar complaints in case 0380/14 where "The Panel noted that the advertisement makes reference to love making and considered that this is not sexually explicit language or language that is inappropriate in the context of the advertised product. The Panel noted that the advertisement is for a sex related product but considered that the content is relatively mild and not inappropriate for the medium or the relevant broad audience which could include children."

The Panel also noted that it had upheld similar complaints in case 0482/15 where the Panel: "...noted that the voiceover makes repeated references to sex: 'average sex', 'mind-blowing sex', 'longer lasting sex' as well as other sex-related references: 'longest lasting bedroom session' and 'premature ejaculation'. The Panel considered that the accumulation of sexualised language and references increases the impact of the sexual content. The Panel noted the relentless style of delivery and considered that overall the repeated sexual language and references amount to an overall depiction of sexual material which is not mild and does highlight the issue of sexual performance and activity in an impactful manner to the listener."



In the current advertisement the Panel noted that the advertisement makes reference to satisfying a woman for longer but considered that similar to the sexual references in case 0380/14, this reference is not explicit or strongly sexualised and while adults would understand the meaning of the advertisement in the Panel's view most younger children would not.

The Panel noted that the advertisement was presented in a matter-of-fact way with no sexual music or tone of voice. The Panel considered that the delivery of the advertisement was not sexually aggressive or exciting.

The Panel noted a complainant's concern that Version B of the advertisement makes reference to gang rape. The Panel considered that the complainant may have misheard the radio advertisement. The Panel did not consider that the advertisement included any references that could be suggestive of sexual assault. The Panel did not consider that the reference to a percentage of men related to a number of men having sex with a woman.

The Panel noted that the advertisement was aired at various times through the day. The Panel noted the advertiser's response that their advertising is targeted on the basis of the demographic audience and the level of enquiry generated by advertising on the relevant station. The Panel noted that some members of the community would prefer that this product was not advertised at all but considered that in this instance the advertisement was not strongly sexualised and was not inappropriate for a broad audience which could include children.

The Panel determined that the advertisement did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaints.

