



Case Report

1	Case Number	0272/13
2	Advertiser	Advanced Medical Institute
3	Product	Health Products
4	Type of Advertisement / media	Billboard
5	Date of Determination	14/08/2013
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

Large yellow billboard with prominent black and red lettering: "Making Love..Make it bigger & last longer. Call or SMS 'LONGER' to 1800 711 711. www.amiaustralia.com.au".

THE COMPLAINT

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

As an outdoor advertisement this billboard is visible to all ages and is along a main road near a number of schools. Children do not need to be thinking about men's sexual dysfunction or the size of a man's erect penis while on the way to school. I as an adult do not want to see this advertising in the public space either.

The reference to "make it bigger" - obviously referring to penis size - is exploitative and degrading, reinforcing men's and boys' anxiety about their bodies.

The billboard is on a train line, near a school and police station. It is adding to the sexualisation of our society and impacting our children with messages of sex all around them. This is contributing to anxiety and depression.

*"Make it bigger" can only refer to one thing and as such is not appropriate
Try to explain "make it bigger" and "last longer" to children!*

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 the 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:

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

section 2.3 of the code which 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 which 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

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 board 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 this advertisement. Without limiting the foregoing, we note that the communications are not directed to or targeted at children and do not contain any obscene or coarse language. We accordingly submit that section 2.5 of the Code is not relevant to this advertisement, however to the extent that section 2.5 of the Code is considered to encompass general community attitude issues we refer you to our comments relating to section 2.3 of the Code below.

The advertisement does not involve any dangerous activities. We accordingly submit that the advertisement does not infringe section 2.6 of the code in any way.

The advertisement does not use discriminatory language of any kind. It does not seek to be critical of persons in any way and deals with these legitimate medical problems in a positive way. In making these comments the advertisement makes an inference that people who have this condition are not uncommon and should not be embarrassed about their condition. We accordingly submit that the advertisement does not infringe section 2.1 of the code in any way.

Section 2.3 of the code requires advertisements to treat sex, nudity and sexuality with sensitivity to the relevant audience and the relevant programme time zone.

As you are aware, AMI has previously commissioned an independent market research report by Galaxy Research on these issues. 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;

This research is also supported by an analysis of online commentary in relation to these issues. For example, attached is a link to a news story that ran on ninemsn.com, that attracted nearly 200 comments from the public:

<http://news.ninemsn.com.au/article.aspx?id=663170&source=cmailer>

As is evident, these responses clearly demonstrate a prevailing community acceptance of such advertising and further, alarm that the ASB feels it must censor the word 'sex' from AMI's advertisements.

While some people in the community may disagree with the word 'sex', a larger section of the community opposes the censorship of the advertising.

Also submitted are two other discussion forums from previous news stories that demonstrate similar sentiments:

ABC Online: <http://www.abc.net.au/news/stories/2008/08/26/2346336.htm>

PerthNow: <http://www.news.com.au/perthnow/comments/0,21590,24239765-2761,00.html>

All of these forums – with comments from hundreds of Australians – show a clear majority of community support for AMI's use of "Sex" in its public advertising.

We believe that each of these forums (and Galaxy's independent research report) clearly indicate that AMI's advertising is in line with prevailing community standards and is appropriate.

We are aware that the board has separately commissioned its own research in relation to these matters. Whilst we understand that the Board's research indicates that a section of the community do not like AMI's advertising we believe that a significant portion of these concerns are related to the size and extent of AMI's advertising rather than the content of them.

As a result, we submit that whilst the advertisement might be considered to portray issues of sex and sexuality, we submit that it does so with the appropriate level of sensitivity having regard to the audience and medium in which it has been presented. In particular, we note that the advertisement does not contain the word "Sex" or any other sexual related language, the advertisement does not contain any nudity and the imagery and language used on the billboard is conservative and considerably less confronting than numerous other billboards

for AMI services and the services and products of other advertisers which have been approved by the board.

Consequently, whilst the advertisement portrays issues of sex and sexuality, we submit that it does so with the appropriate level of sensitivity having regard to the audience and that there is accordingly no breach of section 2.3 or section 2.5 of the Code.

For all of the reasons set out above, we submit that the advertisement does not breach section 2 of the code and that the complaint should be dismissed.

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 complainant’s concerns that the advertisement includes text that is of a sexual nature and is inappropriate for viewing by children.

The Board noted that some of the community concern about the advertisement is concern over

the product and the fact that it can be advertised. The Board stated that this issue has to be separated

from the content of the advertisement as it is not an issue that is within the jurisdiction of the Board. The Board noted that the size and specific placement of a billboard are also not matters that are, of their own, within its jurisdiction.

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

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 that it has previously considered the use of the words 'Making Love...Do it longer' (0419/09). In that matter the Board considered that the advertisement “does not use any direct or overt references to sex or sexuality, using only the words "Do It" to direct adults to the relevant meaning. The Board previously considered that children would not be aware of what 'do it' was supposed to refer to...The Board considered that this advertisement was at the upper end of acceptable but that it did not breach the Code.’

The Board noted that in the matter above, the matter was progressed to an Independent

Review as the Board had not adequately discussed the issue of whether or not the language used complied with the Code and noted that the decision to dismiss the complaint was reaffirmed.

Further to this, the Board noted the research conducted in 2010 which reflected views of the community regarding the billboard outlined above. The Board noted that the proportion of respondents indicated that the advertisement was not acceptable to show as an outside billboard (48%), which outweighed the proportion of respondents who considered the ad acceptable as 10% were unable to decide whether it was acceptable or not.

The Board noted the particular advertisement before them in this matter is a large billboard with a bright yellow background and in large writing states: “Making Love... Make it Bigger & Last longer.

Call 1800 711 711.”

The Board noted that the billboard format means that a large portion of the community may be able to view the billboard with its messaging reaching beyond that of the target audience. The Board noted that while advertisements in other mediums may limit the relevant audience, the nature of large billboards means that there can often be no practicable way for the community to control their exposure, or their children’s exposure, to the content.

A minority of the Board considered that the product advertised is a sex related product and that an advertisement with a sexual reference is not inappropriate. The minority of the Board considered that that reference to ‘making love’ is more subtle than previous references to ‘sex’ and is a reference that most adults would be able to age-appropriately explain to children if questions were asked. The minority of the Board also considered that the reference to ‘make it bigger and last longer’ is also ambiguous and unlikely to be understood by young children. The minority of the Board considered that, while some members of the community do not like seeing billboards with sexual references, the billboard is sufficiently subtle in its promotion of the product that it can be considered to treat the issue of sex with sensitivity to the relevant audience.

The majority of the Board considered however, that the text on this billboard although similar to previous billboard advertisements of this advertiser, is more sexualised in nature particularly with the reference to ‘making it bigger.’ The Board considered that in the context of the product/service being promoted, most reasonable members of the community would be likely to interpret the references to ‘making it bigger’ to be a reference to penis size.

The Board considered that the overall impression of the advertisement is a clear reference to sexual activity. The Board noted that the advertisement is a large format advertisement which is available for viewing by a broad audience including children. The Board considered that the advertisement makes a sexual reference and does so without appropriate regard to the broad audience.

Based on the above, the Board determined that the advertisement did not treat the issue of sex,

sexuality and nudity with sensitivity to the relevant audience and did breach Section 2.4 of the Code.

A number of members also considered that the references to 'make it bigger and last longer' could be understood as a direct appeal to some men's anxiety about size and therefore as degrading and exploitative to men and potentially a breach of section 2.2 of the Code which prohibits the use of sexual appeal in a manner that is exploitative and degrading. The majority of the Board however considered that this was not a strong feature of the advertisement and that the advertisement did not breach section 2.2.

The Board then 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 2012 research undertaken by the Advertising Standards Bureau regarding community perceptions on the use of language in advertising and in particular the level of community concerns around advertising where children may be exposed to unacceptable language.

The majority of the Board considered that the words 'making love' are not inappropriate in this advertisement as they are relatively discrete and subject to relatively simple age appropriate explanations should children ask questions. The Board considered that the language used on the billboard were not words that could be considered strong or obscene per se particularly as the words 'make it bigger and last longer' are not necessarily likely to be clearly understood as a reference to any particular aspect of sexual activity or sexual organs.

The Board considered however that the use of the phrase "Making Love..." in conjunction with the words "Make it Bigger and Last Longer" in the context of the product being sold would most likely be seen as a strong sexual reference. The Board considered that in this particular billboard format this language is not appropriate for a broad audience that would include children. The Board therefore determined that the advertisement breached section 2.5 of the Code.

Finding that the advertisement breached Sections 2.4 and 2.5 of the Code, the Board upheld the complaints.

ADVERTISER RESPONSE TO DETERMINATION

"AMI are in the process of changing the billboards back to the earlier approved version. As you might appreciate there are a number of billboards in different locations and it will take a few weeks to complete the process of changing all skins however this should be completed in 2-3 weeks at the latest."

