



Case Report

1	Case Number	0295/14
2	Advertiser	Advanced Medical Institute
3	Product	Professional Service
4	Type of Advertisement / media	Radio
5	Date of Determination	27/08/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

Advertisement refers to AMI knows what your "chick" is really thinking. Call or text the word strip to 1800 30 30 10.

THE COMPLAINT

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

I heard this advertisement this morning between 8:20am and 8:50am so kids going to school hear it and the 6:24pm time is another that kids would be listening. Advertising standards have slipped far enough without having to hear adult themes such as this.

This particular ad runs repeatedly during both morning and afternoon "drive-times" (7am-8am and 4pm-5pm) on B105. I object to my two school-age children being exposed to the content and subject matter of this ad while being driven to and from school. I am also offended by the ad's use of the term "chick" to describe women. I accept that this derogatory, slang term has wormed its way into our lexicon, but its use is not appropriate in radio advertising.

*I believe calling women "chics" is degrading terminology to women that offends me personally and I know of others who are also offended by it.
The advertiser would be far better off if they are trying to improve the relationship of the couple to refer to the female as a "lady"*

The male announcer addresses male audience members and suggests he knows what "your chick" wants during sex. While the word 'chick' is a colloquial term for women, the context in which it is used in this advertisement is demeaning towards women, belittling them and treating them as possessions.

Most advertisements from this company are also offensive in the way they demean men for their sexual performance, and state women will not 'love' them without longer sex. If this situation were reversed, and an advertisement was targeted at women stating they will only be 'loved' or found attractive if they have more sex, I have no doubt the advertisement would be removed.

I do not have a concern with the product being advertised, just the way in which it advertised.

It was 8am on a school morning. With a car full of young children it was a very inappropriate topic. I did not appreciate being asked by my 6 year old what satisfying sex was. Then when the conversation was about listeners finding their partners in compromising situations made it worse. I switched off the radio as I was utterly disgusted that this was being discussed at 8am. Surely they must adhere to content and time guidelines. I am very disappointed and upset with this and the effect it had on my boys.

The sleazy nature of these ads are totally inappropriate for young children and I am sick of them. Ring them without any warning when driving my children to and from school. Please note it is the sleazy nature of these ads and disgusting comments about sex that I find not suitable, they should at least be restricted to after 9pm when children are less likely to hear them, or give parents a warning that the ad is about to come on so we can switch the radio station.

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 relates 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 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 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 several of the complaints have stated that the use of the term "chick" in the advertisement is discriminatory or derogatory to women. We do not believe that the use of this term vilifies women or discriminates against women which is what is required for an advertisement to breach the code. On the contrary, women are portrayed in a positive manner in the advertisement.

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 6-7 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. The approach of using a softer form of the advertisement for these times has been adopted and implemented in this case.

This particular advertisement does not use the term “sex”. In addition, the relevant stations on which it is broadcast including the EDGE and 2DAYFM in Sydney, FOXFM in Melbourne, B105 in Brisbane and 92.9FM in Perth have an older audience profile and very few complaints have been received in relation to this advertisement.

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. AMI believes that the phrases used in these advertisements 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 (eg 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 2.3 or section 2.5 of the code.*

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 contains sexual material which is inappropriate for children to hear and that it refers to women as ‘chicks’ which is demeaning.

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

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that ‘advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.’

The Board noted the advertisement features a voiceover talking about knowing what your ‘chick’ is really thinking and how you may not be happy about hearing it. There is a couple who speak and the female refers to the man only lasting “...a couple of minutes..” The voiceover then describes the benefits of calling AMI to assist.

In the current advertisement the Board noted that it is the voiceover that refers to the woman as “chick.” The Board noted that the term ‘chick’ is a colloquial term used to mean girlfriend or partner and that the use in this advertisement is intended to be humorous as the male voiceover is portrayed in a sophisticated manner who would be unlikely to use this term.

The Board noted that some members of the community would be offended by referring to women in this way, but considered that it is not a derogatory remark, but rather a term used to describe someone who is known well and can be used to describe other relationships such as between female friends and as a term of endearment.

The Board determined that the advertisement did not breach Section 2.1 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 it had previously dismissed a similar advertisement for the same advertiser (ref: 0145/13) which referred to men calling AMI about their oral strips. In this case the Board considered that “... the advertisement’s target audience was adult listeners and noted that programming aimed at this audience could be switched off while children were present. The Board noted that the advertisement is for a sexually related product and that mentions of sex, erections and enhancement of sexual performance are relevant to the product.

The Board noted that the advertisement raised issues of sex and sexuality that some members of the community may find inappropriate for radio broadcast at any time. While the Board recognised that some members of the community may be offended by the discussion of certain issues relating to sexual performance in a radio advertisement however, the Board considered that the advertisement’s treatment of sex and sexuality was not inappropriate to an after 8.30pm audience...”

Similar to the rationale above, in the current advertisement, the Board noted the advertiser’s response that radio stations themselves apply certain restrictions to the advertisements for these and like products and that the advertisement was aired appropriately within the restrictions of the particular stations. The Board noted that the advertisement does not use sexually explicit language or language that is inappropriate in the context of the advertised product.

The Board considered that although the product is a sex related product, the advertisement is not inappropriate for the medium and does treat the issue of sex with sensitivity to the relevant audience and did not breach section 2.4 of the Code.

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