



Case Report

1	Case Number	0296/14
2	Advertiser	Advanced Medical Institute
3	Product	Professional Service
4	Type of Advertisement / media	TV - Free to air
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

DESCRIPTION OF THE ADVERTISEMENT

The advertisement features a call to ‘guys’ to contact the AMI to overcome and resolve premature ejaculation problems with AMI’s “make it bigger and last longer options.” Images are seen of a couple on a bed and text and phone number appears on screen. The voiceover does refer to “have longer lasting sex.”

THE COMPLAINT

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

I am sick of seeing the Ad as it is very sexual and who wants to see an Ad about Premature ejaculation. Seriously this Ad needs to be taken off air. The Ad is very specific in what it is saying and there could be young people watching TV at that time of night, what kind of ideas are they getting. If married couples are having problems with their sex they would go and see their Doctor.

I feel like I should be able to catch up on the rugby without having to watch images of people in intentionally sex-like positions. Also I feel like the advertising makes sex a commodity for personal satisfaction rather than an expression of love. Also the ad implies that everyone will have longer lasting sex, is that really true? It seems to say that all who use the product will have a larger penis. Is that true? Is that medically a good thing? I also think the add is

insulting to men, implying by relative terms (e.g. bigger, longer) that all men have inadequate sexual performance or physique.

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 these advertisements 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 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 relating to advertising and marketing to children is not relevant.

The advertisements do not use discriminatory language of any kind. They also do not seek to be critical of persons in any way - on the contrary the advertisements endeavour to deal with this difficult issue in a positive way.

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.

The advertisement is run from 10:30pm until 2am. It is broadcast during shows like “The Footy Show”, “Anger Management”, “Two and a Half Men” and “Embarrassing Bodies” which all contain adult content and which often have sexual references and language.

The advertisement is accordingly clearly targeted at and limited to age appropriate demographics.

Whilst AMI acknowledges that some members of the community do not like AMI’s advertisements, we believe that the advertisement complies with the code by treating sex and sexuality sensitively having regard to the relevant audience taking into account the time of broadcast and the shows in which it is broadcast.

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.*

This particular advertisement uses the phrases “premature ejaculation” and “sex”. 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 (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 restrictions on access to the advertisement put in place by You Tube. We further note that it appears that only 2 complaints have been received in relation to this advertisement and that there does not appear to be widespread complaints about it. 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 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 depicts sexual images and contains sexual references which are not appropriate for viewing by children.

The Board viewed 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 call to ‘guys’ to contact the AMI to overcome and resolve premature ejaculation problems with AMI’s “make it bigger and last longer options.” Images are seen of a couple on a bed and text and phone number appears on screen. The voiceover does refer to “have longer lasting sex.”

The Board noted that the advertisement refers to using the product to assist men with the sensitive matter of sexual performance but it is presented in a factual way and is not suggesting that men who may suffer from this are inferior to those who don’t.

The Board noted it had previously dismissed a similar advertisement for the same advertiser (0145/13) and similar to that case the Board considered that although some people may consider the discussion of a man’s erectile dysfunction to be inappropriate or demeaning, the

overall content of the advertisement does not amount to material that is discriminatory of any people with a disability or to a particular identifiable group of men and did not breach section 2.1 of the Code.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board then 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 sexual references such as those in the advertisement are not appropriate for television advertisements that can be seen by children. The Board noted the advertiser’s response that the advertisement is aired between 10.30pm and 2.00am and considered that the likely audience at these times are adults and would not include young children.

The Board noted that the product is a sex related product and that the terminology used in the advertisement is of a sexual nature. The Board noted that the images of the couple in the background are not sexually explicit and that the overall tone of the advertisement is mature and would not be of appeal to a young audience.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity 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.