



## Case Report

1	Case Number	0340/10
2	Advertiser	Advanced Medical Institute
3	Product	Health Products
4	Type of Advertisement / media	Print
5	Date of Determination	11/08/2010
6	DETERMINATION	Dismissed

### ISSUES RAISED

2.3 - Sex/sexuality/nudity      Treat with sensitivity to relevant audience

### DESCRIPTION OF THE ADVERTISEMENT

Black background with words in bold white lettering: "Want longer lasting sex? Talk to a Doctor at AMI about Nasal Delivery Technology. Call or SMS 'Try' 1800 20 40 90."

### THE COMPLAINT

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

*This type of advertisement is often shown on television and local community newspaper and billboard this particular ad is regularly in my local community newspaper and now I have received it in my mail letter box. Such advertisement should not be allowed to advertise this is more appropriate in a medical clinic it is too confronting a person is not given a choice to avoid it this is impossible because it is advertised in our local community newspaper and now letter box. I cannot leave the newspaper around freely in my house because of the image and large print SEX words in the past only adult magazines would have such type of advertisements and this was well known where they were now days sex images and information is almost everywhere as a parent we cannot control police everything because it is happening much too fast and more such type of advertisements and regularly. My grandson would collect the mail and now I have to stop this this is certainly restricting my freedom with my family in my own residential area we regulate the internet television and newspaper now and now as well letter box. This is type of offensive material needs to be stopped this company also advertises in the middle of the day sometimes my sick grandchildren watch television it used to be late at night but now is in the middle of the day.*

*this company should not be allowed to freely advertise in this way any longer. We need to protect our children and the elderly who also find this confronting and offensive. Please forbid such company from further polluting our society with no consideration to young viewers.*

## **THE ADVERTISER'S RESPONSE**

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

*This particular advertisement appeared in the adult services section of the Southern Star publication in Queensland, alongside advertisements for escorts and massage parlours and other similar services.*

*As you are aware, our client 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/O.2.1590.24239765-2761.00.htm!>*

*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. The phrase used in our client's advertising is relevant to the services provided by our client and has not been selected gratuitously.*

*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 this respect, we request that the Board have regard to the section of the newspaper in which the advertisement was located and the nature of the other advertisements (e.g. escorts and massage parlours) which were located alongside this advertisement. 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. We believe that this is best illustrated by the fact that there appears to only be one complaint regarding this advertisement.*

*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 is too confronting in the way it advertises its product and that it can be seen by children.

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

The Board considered whether the advertisement was in breach of section 2.3 of the Code. Section 2.3 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone”.

The Board noted that this print advertisement features the words “Want longer lasting sex?” and that the Board had previously upheld an AMI billboard featuring similar wording in 2008 (Case ref 278/08).

The Board considered the wording of the advert. The Board noted that the advertisement is for a sex-related product and considered that a reference to sex in an advertisement for a sex-related product was not inappropriate.

The Board noted that this advertisement is in media for this advertisement and the fact that the audience is not as broad as that of a billboard. The Board considered the advertiser’s response that this advertisement was placed in the classified section of the newspaper alongside advertisements for escorts and massage parlours. The Board considered that whilst this advertisement could bring the issue of sex before children, the placement of the advertisement within the classified section of the newspaper would mean the advertisement should not be immediately available to children.

The Board determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and that it did not breach section 2.3 of the Code.

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