



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0512/10</b>
<b>2</b>	<b>Advertiser</b>	<b>Totally Natural Products</b>
<b>3</b>	<b>Product</b>	<b>Health Products</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Radio</b>
<b>5</b>	<b>Date of Determination</b>	<b>19/01/2011</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

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

### DESCRIPTION OF THE ADVERTISEMENT

Female voiceover talks about an 'aphrodisiac formula which may help awaken your Sexual Mojo".

She then goes on to say how Male Mojo could help you have the best sex of your life.

### THE COMPLAINT

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

*It goes into too much detail about sexual performance (at a time when children are at home). This advert is also on other radio stations. If the radio station has to play this I think it should be after 9pm. My children have asked me what is "sexual performance in men, mum" ? PLEASE PLEASE REMOVE IT.*

### THE ADVERTISER'S RESPONSE

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

*For the ASB's deliberation, Health Food Shop P/L has attached for your reference scripts associated with Male MOJO advertising and mp3 recording of the ads. These ads were used on a rotation basis by the radio station. The complaint we have received is not specific regarding the date or time the complainant heard the ad, so we have supplied all versions of the ad for you.*

*The Health Food Shop P/L understands that receipt of the material submitted is taken as consent for its use by the ASB and for the Board's use and purpose as well.*

*The nature of the complaint is regarding AANA Code of Ethics (Section 2.3) - 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 complaint specifically relates to a complementary medicine called Male MOJO listed on the Australian Register of Therapeutic Goods – AUSTL 173269.*

*The advertisement(s) in question for Male MOJO have been passed and approved by the Australian Self Medication Industry (ASMI) - the peak body representing companies involved in the manufacture and distribution of consumer healthcare products in Australia. ASMI Code of Practice sets the ethical standards for advertising and promotion of non-prescription consumer healthcare products in Australia. This system of self-regulation complements the co-regulatory advertising controls and the legislative requirements of the Therapeutic Goods Regulations 1990 and Therapeutic Goods Act 1989.*

*The code is authorised by the Australian Competition and Consumer Commission and it follows the National Medicines Policy which aims to improve health outcomes for all Australians.*

*The objectives of the code are to assist members to:*

- Responsibly inform consumers about products*
- Make accurate, balanced and objective claims*
- Promote the Quality Use of Medicines*

*As ASMI is the governing body for advertisements in the consumer healthcare market and by being given their approval, the issue of taste and decency and all other sections of the code, in relation to this product, being a complementary medicine, have been addressed.*

*Male MOJO has been formulated to help maintain healthy testosterone levels in men. Related health conditions include low libido and poor sexual performance. Because healthy testosterone levels is an important male health issue Health Food Shop P/L has addressed this need. To reinforce this point we have included Appendix 1, which is an extract from New Scientist magazine concerning the testosterone levels in men. Please note Male MOJO does not purport to aid or assist erectile dysfunction, but is indicated for a male's libido and sexual performance, amongst other conditions.*

*We regret making the complainant uncomfortable with our advertising. However, given the health implications of testosterone levels in men, Health Food Shop P/L developed the attached ads to promote the product and the use of the radio station in question (2UE) is significant. The station was chosen due to its older demographic audience. 2UE is an adults' radio station, where topical issues are raised and discussed on a continual basis. As outlined, libido and sexual performance are important health issues for men and Health Food Shop P/L believes it is appropriate to promote its product to the 2UE listener.*

*It is also worth noting that 2UE deliberately excluded the airing any Male MOJO ad during the peak times of 8-9am and 2:30-4pm. The radio station was happy to run the ads but felt it inappropriate to do so during school drop-off times. Health Food Shop P/L was completely supportive of this initiative.*

*We do take our social responsibility very seriously with our advertising and I trust this fact is evident in my response. I also trust the information supplied to you will help to ensure a prompt resolution to the complaint.*

## *Appendix 1*

*New Scientist has released the following information pertaining to this health issue: Scientists are now encouraging men to be screened for low levels of testosterone and treated accordingly.*

*The article states: "In particular, they recommend measuring testosterone in all men who have both type 2 diabetes and symptoms of testosterone deficiency, and in those with erectile dysfunction or low libido. ""This is a major change,"" says Andre Araujo, director of epidemiology at the New England Research Institutes in Watertown, Massachusetts. ""That puts a lot of people in the category of being screened for low testosterone.""*

*"However, they also emphasise the role testosterone may play in causing these symptoms. In the case of erectile dysfunction, doctors are realising that drugs like Viagra, which increase blood flow to the penis, may not work if men also have low testosterone. Meanwhile, there is now strong evidence that low testosterone is linked with diabetes and obesity, and some evidence that boosting testosterone can alleviate the symptoms of diabetes."*

*"In the past two years several studies (see, for example, Archives of Internal Medicine, vol 166, p 1660, and The Journal of Clinical Endocrinology and Metabolism, DOI: 10.1210/jc.2007-1792) have indicated that men with low levels of testosterone are more likely to die earlier than men with normal testosterone levels - even if they have no other symptoms."*

*For further information regarding this released information and low testosterone in men, please see:*

*<http://www.newscientist.com/article/mg20026803.800#bx268038B1>*

## **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 complainants' concerns that the advertisement provides too much detail about sexual performance and is unsuitable for children to hear.

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 the advertisement is for a product called Male Mojo which may help a man's sexual performance. The Board noted that this product is allowed to be advertised, and noted the advertiser's response that the advertisement was not to be played during times when children would be getting dropped off or picked up from school.

The Board noted that the product is a sex related product and that references to sex or sexual relations are relevant. The Board noted that there are repetitive references to sex. The Board noted that the advertisement is a radio advertisement and hence is capable of a broad listening audience. However the Board noted that people can choose from a number of radio stations and can turn off the radio if concerned about the content of material.

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.

The Board 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 considered that some members of the community may be offended by the use of sexual terms in the advertisement but considered that the words were relevant to the product and therefore not inappropriate. The Board also considered that most people would consider that the use of the various terms in the advertisement would not amount to inappropriate or strong or obscene language.

The Board determined the language used was not inappropriate and that there was no breach of Section 2.5.

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