



Case Report

1	Case Number	0571/17
2	Advertiser	Advanced Medical Institute
3	Product	Health Products
4	Type of Advertisement / media	Radio
5	Date of Determination	24/01/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Religion
- 2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

A radio advertisement which featured a male voice stating 'we wish you a merry sexmas' and promotes oral strips for longer lasting sex.

THE COMPLAINT

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

As a Christian this is extremely disrespectful, Christmas is a holy and special time. Not to be disgraced by an ad stating to have a longer lasting sexual experience at Christmas. That is absolutely distasteful and wrong.

I thought that the timing of an advertisement like this was very inappropriate, it was 3:50pm which was end of school time. There would surely be listeners with you he children's in their cars. I'm not a parent but was surprised that this type of advertisement was on during these hours. I believe that if a parent had the radio on in the vehicle and children heard that it was completely rude. This type of ad should be on late in the evening not at 3:50pm in the afternoon.

Being so overt about Sex during that time period is completely inappropriate. As a mother to a 9 year old daughter who loves to listen to mainstream radio, I was horrified to discovered this kind of advertising appearing during this time. Certainly (like TV) there must be a time

limit to advertise such a sexualise ad. Surely we need to protect our children from this very clearly adult advertising.

I think it's distasteful advertising oral mouth strips for longer lasting sex on the station period, but advertising it at school pick up time and using Christmas as a marketing's ploy is to me very offensive. It's a Christian celebration and using it to advertise sex is Extremely offensive.

THE ADVERTISER'S RESPONSE

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

While my clients believe the advertisement complies with the code, my clients voluntarily withdrew the advertisement last year within about 7 days of receiving the notification.

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 contains inappropriate sexualised content which is not suitable for children to listen to and that using Christmas to advertise sex is offensive.

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 Practice Note to Section 2.1 of the Code which provides the following definitions:

"Discrimination – unfair or less favourable treatment
Vilification – humiliates, intimidates, incites hatred, contempt or ridicule".

The Board noted there were two versions of this radio advertisement, a 15 second version and a 30 second version. Both versions start with the line 'we wish you a merry sexmas'.

The Board noted the complainants' concerns that using a Christian celebration to advertise sex is offensive.

The Board considered whether replacing the word 'Christmas' with 'sexmas' was equating Christ with sex, and whether this was a determination which would discriminate against or vilify Christians.

The Board noted that as well as being an important part of the Christian calendar, 'Christmas' has been commercialised as a holiday season and considered that the use of the word Christmas, is a secular term. The Board noted that complaints about other terms such as 'BCFing Christmas', 'puntmas' and 'Xmas' have all been dismissed on the basis that amending the word Christmas is not discriminatory towards people with strong Christian beliefs (0554/16, 0456/17 and 64/10). The Board also considered that the term 'sexmas' is not in this situation discriminatory towards or vilifying of the Christian religion or people of Christian faith.

The Board considered that the advertisement did not portray or depict material that humiliates, intimidates, incites hatred, contempt or ridicule of a person or section of the community on account of religion and 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 there were two versions of this radio advertisement, a 15 second version and a 30 second version and both versions featured the terms 'sexmas' and 'longer lasting sex'

The Board noted that the product is a sex related product and considered that it is reasonable for the advertisement to make reference to sex, although the medium in which the advertisement is broadcast will affect whether or not the sexual references are appropriate.

The Board noted that the 30 second version of the advertisement makes four references to 'sexmas' and two references to longer lasting sex and the 15 second version has one reference to 'sexmas' and two references to longer lasting sex.

The Board noted it had previously dismissed similar complaints in case 0380/14.

"The Board noted that the advertisement makes reference to love making and considered that this is not sexually explicit language or language that is inappropriate in the context of the advertised product. The Board noted that the advertisement is for a sex related product but considered that the content is relatively mild and not inappropriate for the medium or the relevant broad audience which could include children."

The Board also noted that it had upheld similar complaints in case 0482/15 where the Board:

"...noted that the voiceover makes repeated references to sex: 'average sex', 'mind-blowing sex', 'longer lasting sex' as well as other sex-related references: 'longest lasting bedroom session' and 'premature ejaculation'. The Board considered that the accumulation of sexualised language and references increases the impact of the sexual content. The Board noted the relentless style of delivery and considered that overall the repeated sexual language and references amount to an overall depiction of sexual material which is not mild and does highlight the issue of sexual performance and activity in an impactful manner to the listener."

In the current advertisement the Board noted that the advertisement makes reference to longer lasting sex and features the line 'we wish you a merry sexmas'.

The Board noted the timing of the advertisement and the complainants' concern that the advertisement was played at peak school pick-up time.

The Board noted that the demographic for the radio station where the advertisement was heard was 18-29 year olds (<http://www.arn.com.au/brands/the-edge-96one/the-edge/>). The Board considered parents may choose to listen to this station with their children, however considered that the content of this radio station, including comments by the hosts and song content, was likely to include sexual references and innuendo.

The Board considered in the context of a radio advertisement which was played on a channel with a mainly adult audience, the advertisement was not strongly sexualised and was not inappropriate for the relevant audience which may include children.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad radio audience and determined that the advertisement did not breach Section 2.4 of the Code.

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 (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided".

The Board noted the advertisement includes two references to "longer lasting sex" and considered that unlike in upheld case 0482/15, the rest of the language in the advertisement is not overly sexualised. Overall, the Board considered that the word 'sex' is not language which most people would consider strong or obscene. The Board noted that some members of the community may be uncomfortable with reference to sex in an advertisement but considered that the language used is not strong or obscene and in the context of a radio advertisement is not inappropriate.

The Board considered that the advertisement did not use strong or obscene language and the language used was not inappropriate considering the medium and likely predominantly adult audience.

The Board determined that the advertisement did not breach Section 2.5 of the Code.

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

