



## CASE REPORT

1. Complaint reference number	167/09
2. Advertiser	Advanced Medical Institute
3. Product	Professional Services
4. Type of advertisement	TV
5. Nature of complaint	Portrayal of sex/sexuality/nudity – section 2.3
6. Date of determination	Thursday, 14 May 2009
7. DETERMINATION	Upheld – discontinued or modified

## DESCRIPTION OF THE ADVERTISEMENT

This television commercial commences with a man and woman in bed. The man turns off the light and giggling is heard, then the woman says “Oh no, not before me.” The light comes on and with the sound of sirens two men, portraying police officers appear in the room. The older policeman says “Excuse me Sir, do you realize how fast you are going in this bed?” The man in bed asks “And who are you?” The older policeman replies, “We are the bedroom police and we clocked you at one minute, thirty seconds.” The man in bed says “It’s pretty quick, I must admit”. Policeman says, “This time I am going to let you off with a warning if you agree to talk to the doctors at AMI about your premature ejaculation problems, they could really help you.” Voice over says “Call AMI now on 1800 40 40 60 to help with your premature problems.”

## THE COMPLAINT

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

Advertisement on Channel 10 on Thursday April 16th. I object strongly to seeing a sex ad for AMI about Bedroom Police and a couple in bed being questioned about their sex acts and finishing with timing premature ejaculation of this couple.

These ads have been on our local radio station (star fm) recently. They have embarrassed me and I think they are inappropriate for the radio and I have ceased listening to Star FM. Now they are appearing on the TV! What do I do now? Stop watching the TV? These ads are for adults but not all want to listen to them. I really object to the inference in them. The one with the commentator said that this will improve the sex life for singles as well as married people. Really inappropriate for TV and radio and I'm sick of feeling awkward every time they come on the TV. Maybe they are being classed as medical ads but, put plainly, I just don't like them at all and would be very happy not to hear or see them again.

Essentially - you are not a real man unless you can last hours and hours and hours having sexual intercourse. AND, your relationship is not a real relationship, unless you are having hours and hours and hours of sexual intercourse. Do we have to hear about this? I can't be bothered describing the rest. You guys are meant to listen to the community, and NO DOUBT, you have received many complaints already about this company. Why do you still allow them to advertise? It's destroying our society. Australia is becoming a bunch of sex and violence obsessed people through the media. Go to [ninemsn.com.au](http://ninemsn.com.au) right now and see what's on the front page - BREASTS. Is this appropriate? Or is this trying to entice people to read the news, because they know that it is appealing. Isn't this advertising as well??? Should I put in a complaint for that as well?.

- Children still watching TV - don't need to see this - in poor taste no matter who is viewing (was eating dinner)- i myself do not want to hear this when i get home from work- Sex talk like this belongs on late night sex TV if that- is very bad Australian TV and sad that we have to view during a

leading rating medical show - House. - quality production of this ad is rubbish reflecting the poor taste of the company that made it. Channel 10 should have learned from big brother. Have to find a new channel I think? Will miss 'House' but not this.

The gross sexual innuendo is way over the top and also using the advertisement in a mid-day movie time slot is a complete disgrace.

I am writing today to make a complaint about a television commercial that is being aired everyday. It is the AMI Nasal Delivery System commercial for premature ejaculation. I find it not only offensive but just unnecessary and would like it to be taken off air. We are bombarded on billboards, radio and now on television about this issue and enough is enough. I am fed up! I do not consider myself a prude, but when the commercial comes on I turn the television off. You want people to watch television, but how can we, when we are forced to watch such rubbish. Why does advertising have the need to shock its viewers. I feel that people just tolerate this issue and advertisers get away with more brazen forms of advertising. I am not alone with this, my friends and family are just as annoyed. Whenever my children hear the ad on the radio on television they roll their eyes in disgust. They just don't want to hear about the subject. I understand that people have medical issues and they need to be educated, but really, having the sex police in the bedroom with them is just stupid. I would like to see this company's advertising taken off television, or in the least be forced to make it a serious medical issue. I look forward to hearing from you about this.

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following: It is our understanding that a series of complaints have been received in relation to AMI's premature ejaculation TV advertisements featuring the "Bedroom Police" and that the issues raised in relation to the TV advertisement relates to section 2.3 of the code.

As you know, section 2.3 of the code requires advertisements to treat sex, nudity and sexuality with sensitivity to the relevant audience and the relevant programme time zone.

AMI has 2 bedroom police advertisements, a 30 second advertisement and a 60 second advertisement. The 30 second advertisement is the most commonly used advertisement. AMI's "bedroom police" TV advertisements are rated M.

AMI's advertisements are only run when network programmes of the same or higher rating are run. In relation to free to air television this restricts the times at which the M rated advertisements are run to between noon and 3pm during weekdays (excluding school holidays) and after 8:30 pm. In relation to pay TV stations, we are instructed that certain channels on the stations are directed at particular audiences and are aimed at particular audience demographics. These advertisements are only run on these stations when programmes with equivalent rated programmes are run on those channels in line with commercial television rating requirements and guidelines. If a lower rated programme is run during these times then the advertisements are not permitted to be run during these times under the commercial television ratings guidelines.

This means that the advertisements are only run at times and during programmes when children are unlikely to be watching television as they should either be attending school (in relation to the daytime advertisements) or in bed (in relation to the night time advertisements) or not watching the particular programme in relation to pay TV stations (as it is not rated as suitable for children) and the advertisements are scheduled at these times and during these programmes for this very reason. The company does not run advertisements on free to air tv between noon and 3pm during school holidays or prior to 8:30pm for this very reason. From the complaints received, it seems that there were no instances of our client's advertisements being aired outside these times. Furthermore, it appears that the advertisements were run during Dr Phil, Oprah and Good News Week, shows which deals with adult themes and which are not suitable for children and during evening movies after 8:30pm.

Whilst the advertisements portray issues of sex and sexuality, we submit that they do so with the appropriate level of sensitivity having regard to the relevant audience ordinarily watching TV at this

program time zone and rating.

As evidence supporting this submission, we also enclose a copy of an independent market research report which was conducted 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;- 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.

We do not believe that the phrases used in these particular advertisements are any more offensive than the phrase "want longer lasting sex".

Finally, we note that commercial television ratings guidelines have been developed by Commercials Advice Pty Limited (CAD) to regulate the material that may be included in television programs and advertisements at different time zones and that the ratings guidelines provide detailed guidelines as to whether or not material contained within television programs and advertisements treat these issues appropriately.

It's important to note that these advertisements were approved prior to broadcast by CAD. During this approval process, these advertisements were given an M rating, which has been accepted and adhered to by the advertiser. The advertisements have only aired in timeslots deemed by CAD to have an M rating. AMI's TV advertisements fully comply with the commercial television rating guidelines relating to the times at which the advertisements are run.

For all of the reasons set out above, we submit that the advertisements do not breach section 2.3 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 complainants' concerns that the advertisement is in poor taste, is offensive, uses inappropriate sexual innuendo for the time zone, and is detrimental to men's physical and emotional health.

The Board noted that the advertiser has framed its advertising towards men with a particular medical/health issue relating to premature ejaculation. The Board noted that it has considered a number of AMI advertisements over the years with some upheld and some not. The Board noted that the product is legally able to be sold and therefore able to be advertised provided that it complies with the provisions of the Code.

The Board considered the application of Section 2.1 of the Code, relating to discrimination and vilification on the basis of sex and/or disability (medical condition); Section 2.3, relating to the treatment of sex, sexuality and nudity; and Section 2.6, relating to prevailing community standards on health and safety.

The Board considered section 2.1 of the Code. Section 2.1 provides that:

'advertising or marketing communications shall not portray people or depict material in a way which

discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.'

The Board noted that the advertisement used an unrealistic style and that the advertiser intended it to be light-hearted and humorous. The Board noted that the current advertisement refers to whether or not a man reaches sexual climax before his partner and considered that the depiction was suggestive of a men's health issue being akin to a criminal offence, which the Board considered was demeaning towards a section of the community who had experienced issues with premature ejaculation.

The Board considered the requirements for discrimination and vilification. In particular the Board considered that this advertisement did single out an identifiable section of the community - men experiencing premature ejaculation. In relation to this section of the community the Board considered that the tone and text of the advertisement (in particular the woman's apparent frustration and the suggestion that you have done something wrong if you don't seek help) were suggestive of intolerance towards those men. The Board considered that the current advertisement was denigrating and demeaning towards a section of the community who are experiencing or have experienced premature ejaculation and in fact goes beyond light humour to suggesting ridicule or contempt for this group of men. On this basis the Board determined that the advertisement did discriminate against or vilify men who suffered from premature ejaculation in breach of section 2.1 of the Code.

The Board then considered section 2.3 of the Code which specifies that:

'advertising or marketing communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant time zone.'

The Board noted that the advertisement is for a sexually related product and that mentions of sex 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 television broadcast at any time. However, the Board noted that the advertisement had been given a mature ("M") classification and was broadcast in mature timezones. The Board considered that the advertisement's treatment of sex and sexuality was not inappropriate to a mature audience or mature timezone. The Board therefore determined there was no breach of Section 2.3 of the Code.

The Board then considered section 2.6 of the Code which states:

'advertising or marketing communications shall not depict material contrary to prevailing community standards on health and safety.'

The Board considered whether the advertisement depicted material contrary to community standards on health. The Board noted one complainant's concern that the advertisement would make men feel bad if they suffer from this problem. The Board considered that the suggestion that the man is causing partner dissatisfaction and that not seeking help is a crime does have the potential to cause mental anguish to individuals who had experienced issues associated with premature ejaculation, or to men generally, in contravention of prevailing community standards on health and safety. The Board considered the tone and content of the advertisement clearly had the potential to impact on men's self-esteem and cause shame, embarrassment and undue distress, particularly for those men who had ever experienced issues with premature ejaculation. The Board therefore determined that the advertisement was contrary to prevailing community standards on men's health in contravention of Section 2.6 of the Code.

Finding that the advertisement breached the Code, the Board upheld the complaints.

Advertiser response to determination

Comments which the advertiser made in response to the Board determination include:

Our client has ceased the two advertisements which were current.