



CASE REPORT

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| 1. Complaint reference number | 374/09 |
| 2. Advertiser | Advanced Medical Institute |
| 3. Product | Professional services |
| 4. Type of advertisement | Radio |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 26 August 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

The radio advertisement says: "Guys are you having problems with premature ejaculation? SMS 'TRY' that's T-R-Y to 1800 xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx and you can make love last longer. This ad almost ended prematurely, LIKE SOME MEN. SMS 'T-R-Y' to 1800 xxxxxxxxxxxxxxxxxxxxxxx". A woman speaks during this advertisement.

THE COMPLAINT

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

Premature ejaculation is not an ailment, like AMI suggests. AMI's use of the word "Suffering" makes people believe that if they are not performing well during sexual intercourse, that they are "suffering" from premature ejaculation. Premature ejaculation was something invented by AMI to sell their products - they are tapping into the unconscious minds of men - to make them feel inadequate with their partners.

In actual fact, sexual intercourse is not about performance, or comparison with others. It is about the loving union between a man and his wife. AMI forces listeners to believe that it is not a union of love, and in previous advertisements they have encouraged women who are unhappy with their partner's sexual performance to find a new one. This is a factor that directly influences the increase in sexual crime in Australia, as people think of sex as something for their own pleasure, and it is not good enough if they do not get it.

Besides, I also disagree with AMI's claims that they can 'increase the sexual performance of men and women in the bedroom'. Previous lawsuits have proven that AMI's products do not work and are a scam. They have also falsified their statistics in the past, claiming "half of all men suffer from premature ejaculation" - where is this statistic from, and how do they define premature ejaculation in the first place?

Lastly, I would like to point out that if this advertisement is advertising sexual enhancement products, then how is this different to a company advertising sex toys and other sexual products? They are not allowed to advertise during the day, and neither should this company.

Stop this company from adding to the ever increasing amount of sexualisation in the media, please, for the good of our society and the lives of young people. Thanks

AMI is commercialising the sacred act of making love. As much as AMI has tried to market premature ejaculation as being a medical problem, it is not a medical problem, nor is it a PROBLEM at all. How are we to say how long love lasts? Who is timing it? This advertisement is encouraging couples to be unhappy with their relationships, and causes a lot of strain and at times undue embarrassment on the male for something that is not a problem.

Secondly, AMI is commercialising the sacred act of making love. If premature ejaculation is merely a 'medical condition' that has been invented by the company, then it is a product like any other, for the enhancement of pleasure, not the improvement or restoring of health. Therefore, as a sexual enhancement product, it should come under the category of sexual products, such as

condoms, personal adult hotlines etc. There is no place for this advertising in our society, and, contrary to what AMI believes, people *DONT* want to hear about it.

The only reason AMI is getting enquiries from people is because of the insecurity that AMI is causing in the minds of men and women, who feel that they are not 'performing in the bedroom' up to the standards of the 'average' couple that AMI publicises. There is *NO* 'average' when it comes to the act of making love, as it is *NOT* just about pleasure, but is a very special act that is conducted by those who are in *LOVE*.

By allowing these companies to advertise their sexual products, it publicises sex for pleasure *ONLY*, rather than the act of sex through love. This is definitely not having a good impact on society, causing more and more people who hear these advertisements to want sex for pleasure - leading to increased unplanned children, increased abortions (murdering life in the womb), increased STDs, increased underage sex etc.

The Advertising Standards Bureau has a *HUGE* responsibility of ensuring that what is publicised through different media is not going to have a detrimental effect on society. With media reaching more and more people in ever changing ways, you need to ensure that these messages do not destroy our society.

Children are exposed to this language

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 several complaints have been received in relation to this advertisement and that the issues raised in relation to the advertisement appear to relate to section 2.3 of the code.

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 is a high profile and well known radio advertiser. It has been one of the largest radio advertisers in Australia for the last 4-5 years with the Company frequently being rated as a top 5 radio advertiser in each capital city during many of the weekly ratings conducted during this time. AMI's extensive profile of using radio advertising to promote its treatment options is well known in the community and the likelihood that an AMI ad advertisement would be heard if a consumer listened to a particular radio station would not be any surprise to members of the public given AMI's longstanding and well established public profile of advertising on particular commercial radio stations.

*AMI's advertising is confined to certain radio stations with those radio stations being selected on the basis of their demographic audience and the level of enquiry generated by advertising on the relevant station. In this respect we note that AMI owns more than 100 toll free telephone numbers and uses different telephone numbers for each station. AMI also uses call counting software licensed to it by one of Australia's leading telecommunications companies. This system and technology enables AMI to track whether its advertising *IS* effective and has been aimed at the correct target audience.*

In terms of the advertising on particular stations, each of the radio stations used by AMI have restrictions regarding the nature of the advertisements which may be run on those stations as well as time restrictions as to when those advert may be run. Those restrictions have been developed by the program director and are in addition to restrictions applicable under the code. For example, NOVA and AUSTereo do not permit the use of phrases like "premature ejaculation", "bonking" and so on during breakfast (6am to 9am) and kids pick up time (2:30pm to 4pm). At these times AMI's advertising is confined by these stations to the use of softer terms such as "making love" and so on. These restrictions have been developed by the relevant program directors as a result of complaints received by them in relation to AMI advertisements and based on the program directors assessment of the nature of advertising which they believe is appropriate having regard to their station, the program time zone and the target audience for that station and program time zone.

Whilst AMI acknowledges that some members of the community do not like AMI's advertisements, we believe that the advertisements comply with the code by treating sex and sexuality sensitively having regard to the relevant audience and the relevant programme time zone. As set out above, more confronting advertisements are restricted by relevant stations to time zones when children are less likely to be in the car with softer advertisements being run in those times.

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 advert 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 terms "making love" and "premature ejaculation". AMI does not believe that the term "making love" is any more offensive than the phrase "want longer lasting sex". It also does not believe that the term "premature ejaculation" is any more offensive than that phrase. However, in the event a significant portion of the community disagrees with that assessment then it is likely that such difference of opinion will result in a large number of complaints being made to the relevant radio stations with the stations then contacting AMI and asking it to change its advertising. We note that this has not occurred.

The choice of radio stations by members of the public is voluntary and the prevalence of AMI's advertising on certain stations is well known. If particular members of the public do not want to listen to AMI advertisements then they have the option of selecting alternate stations. For each of the reasons set out above we submit that the advertisements do not breach section 2.3 of the code.

We note that the complaint has not raised whether the advertisement breaches section 2.1 or section 2.6 of the code.

Section 2.1 of the code relates to discrimination and vilification. We do not believe that the advertisement discriminates against or vilifies men with premature ejaculation problems. It simply asks them to try AMI if they have a problem.

Section 2.6 of the code requires that advertisements not depict material which is contrary to prevailing community standards on health and safety. Once again, the advertisement is simply suggesting that men try AMI if they have a problem. As a consequence we do not believe it raises safety issues or that it is in breach of prevailing community standards on these issues as it does not involve any dangerous activities or factually inaccurate depictions.

For the reasons set out above we submit that the advertisement does not breach section 2.1 or section 2.6 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 commercialising the act of making love and that AMI has tried to market premature ejaculation as a medical problem and as such makes people believe that they are not performing well during sexual intercourse.

The Board listened to the advertisement and considered whether the advertisement was in breach of the Code.

Section 2.1 of the Code states:

"Advertisements 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 agreed that although the advertisement's sexual nature would be likely to offend some listeners, that in this instance, it was not making a direct vilifying or demeaning remark towards the products' target market. The Board noted however, that there had been recent press concerning the making of alleged 'medical statements', which were linked to the generation of low self-esteem, humiliation and shame and that this type of advertisement might be criticised for degrading human dignity. The Board considered that this advertisement did not discriminate against or vilify men who suffered from premature ejaculation.

Section 2.3 of the Code states:

"Advertisements shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone".

The Board noted that the advertisement is for a sexually related product and that mentions of premature ejaculation are relevant to the product. The Board noted that this is a radio advertisement and that people can choose the stations that they listen to. The Board considered that the content of this advertisement was not inappropriate to a radio audience noting that some consumer concern is about the advertising of the product itself rather than the content of the advertisement. The Board therefore found the treatment of sex was not inappropriate to the relevant audience and did not contravene Section 2.3 of the Code.

The Board also considered the advertisement under section 2.5 of the Code in relation to language. In relation to section 2.5 the Board considered that the use of the language 'premature ejaculation' is not of itself language that should be avoided or that would be considered strong or obscene.

Finding that the advertisement did not breach sections 2.1, 2.3 or 2.5 of the Code or on other grounds, the Board dismissed the complaint.