



CASE REPORT

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| 1. Complaint reference number | 465/08 |
| 2. Advertiser | Advanced Medical Institute |
| 3. Product | Professional Services |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Discrimination or vilification Gender - section 2.1
Discrimination or vilification Age - Section 2.1 |
| 6. Date of determination | Wednesday, 26 November 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This TV advertisement starts with a man asleep in bed, then getting up to go to the bathroom. He is obviously in pain and we see the bathroom tap running, stopping and running again. Later, we see a woman sympathising with the man. The voice over throughout the advertisement says "Are you getting up several times a night to go to the bathroom? Do you experience an interrupted, leaking or weak urinal stream? You could be suffering from prostate enlargement. The Prostate Health Clinic has a non-invasive, non-surgical way to health. Call the Prostate Health Clinic on 1800 70 30 30". Similar information appears on screen.

THE COMPLAINT

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

As a psychologist who also has benign prostate enlargement I find this advertisement offensive and believe that it is psychologically damaging to older men who suffer from this complaint. It portrays them as pathetic creatures who need the support of their wives to cope while they urinate. Also I believe the simulated urination with the noise of water running is in extremely taste. Additionally while not untrue (there is a non-invasive treatment for this condition - if it needs treating) I am sure that the clinic doesn't exist primarily to promote this. Ethically anyone with this complaint should be advised to consult with their GP and be referred to a urologist.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following: *The matters raised in the complaint appear to be that the complainant considers that the advertisement is psychologically damaging to men with this condition and that the advertisement is in poor taste.*

Unfortunately your email does not indicate which section(s) of the code you consider are raised by the complaint. We have therefore provided a response which covers each of the sections of the code.

Section 1 of the code requires that advertisements need to comply with all relevant laws and that advertisements not be misleading. The advertisement has been fully vetted for legal compliance issues and complies with all legal requirements. We do not believe that the complaint raises any issues under section 1 of the code.

Section 2.1 of the code requires that advertisements not discriminate against or vilify any section of the community. The advertisement promotes a treatment for men suffering from prostate issues and proposes a treatment for those issues. We do not believe that the advertisement vilifies or discriminates against sufferers and accordingly submit it does not involve any breach of section

2.1 of the code. There is no suggestion that the advertisement discriminates against men suffering from this condition and we do not believe that portraying a man being supported by his wife involves vilification.

The advertisement does not portray violence and accordingly does not breach section 2.2 of the code.

This advertisement does not portray sex, nudity or sexuality and accordingly does not breach section 2.3 of the code.

The advertisement is clearly not aimed at children and no issue relating to section 2.4 of the code is raised by the complaint.

The advertisement does not use strong or obscene language and accordingly does not breach section 2.5 of the code.

Section 2.6 of the code requires that advertisements not depict material which is contrary to prevailing community standards on health and safety. The advertisement promotes a treatment to men who have urinary issues. The advertisement is not obscene or vulgar and only one complaint appears to have been made in relation to the advertisement notwithstanding that the advertisement has appeared on television for more than one year. We accordingly respectfully submit that the lack of any significant volume of complaints clearly suggests that the general community does not have any major concerns or issues with this advertisement and that the advertisement clearly does not contain material which is contrary to prevailing community standards.

For the reasons set out above we submit that the advertisement does not breach the code.

The prostate advertisement has a W rating. This means it can be run any time of the day or night except that it should not be run during programs which are specifically for preschoolers or for children. Whilst this broad range of times are permitted I am instructed that the company has voluntarily restricted the times at which the advertisement is run to noon to 3pm and after 8:30pm.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board considered the application of Section 2.1 of the Code, relating to discrimination and vilification.

The Board noted the complainants' concerns that older men suffering from prostate problems may be negatively impacted by the advertisement and that it demeaned them in some way. The Board noted the advertisement dealt with a men's health issue and that this advertisement did present a medical message in a manner that, while some may consider bad taste, was not likely to be offensive. The Board considered the depiction did not contain anything that discriminated or vilified persons on the basis of gender or age, and found no breach of Section 2.1 of the Code.

The Board noted the complainants' concerns regarding the nature of the service offered and the ethical conduct of the advertiser in promoting/administering its service to patients, and in particular whether potential patients are referred to a GP or urologist. The Board noted that issues of truth or accuracy in advertising and complaints directed towards the service itself (rather than the advertising of the service) are not matters covered by Section 2 of the Code and accordingly are not appropriate for the Board's consideration.

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