



CASE REPORT

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| 1. Complaint reference number | 519/08 |
| 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 | Wednesday, 10 December 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement from Advanced Medical Institute opens with a voice over saying, "Women talk sex with Olivia" and then cuts to a woman who asks "Do you want more out of sex?" then continues and speaks about the technology available from AMI and the impact it is having on women's sex lives. She tells viewers to call AMI (a number is shown on the screen throughout the advertisement) and suggests she also has an improved sex life through use of the technology. The final screen shows contact details and a voice over reads the number shown.

THE COMPLAINT

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

Many. I feel this is very 'over the top'. Exposing children to this kind of conversation will only encourage them to ask questions about things they don't need to know about yet. I also find the subject matter offensive. I don't really care if men have erection problems, it doesn't need to be such a huge deal with ads everywhere you turn. I think it is vulgar, unnecessary and rude. Thank you for giving me this opportunity.

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 one complaint has been received in relation to this advertisement and that the issue raised in relation to the advertisement relates 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. The advertisement in question is only run between noon and 3pm during weekdays (excluding school holidays) and after 8:30 pm.

These are times 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) and the advertisements are scheduled at these times for this very reason. The company does not run advertisements between noon and 3pm during school holidays or prior to 8:30pm for this very reason.

We note that the complainant indicated that she was watching Ellen between 1pm and 2pm when she saw the advertisement. This program is not aimed at children and contains content which is not suitable for children. It is aimed at adult audiences and we submit that running advertisements of this nature during this program is appropriate as children should not be watching this program.

Whilst the advertisement portrays issues of sex and sexuality, we submit that it does so with the appropriate level of sensitivity having regard to the relevant audience ordinarily watching TV at this program time zone.

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;*

*This research is also supported by an analysis of online commentary in relation to these issues. For example, attached is a link to a news story that ran on ninemsn.com, that attracted nearly 200 comments from the public:
<http://news.ninemsn.com.au/article.aspx?id+663170&source+emailer>*

As is evident, these responses clearly demonstrate a prevailing community acceptance of such advertising and further, alarm that the ASB feels it must censor the word 'sex' from AMI's advertisements.

While some people in the community may disagree with the word 'sex', a greater section of the community oppose the censorship of the advertising.

Also submitted are two other discussion forums from previous news stories that demonstrate similar sentiments:

ABC Online: <http://www.abc.net.au/news/stories/2008/08/26/2346336.htm>

PerthNow: <http://www.news.com.au/perthnow/comments/0,21590,24239765-2761,00.html>

All of these forums - with comments from hundreds of Australians - show a clear majority of community support for AMI's use of "Sex" in its public advertising.

We believe that each of these forums (and Galaxy's independent research report) clearly indicate that AMI's advertising is in line with prevailing community standards and is appropriate.

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 this advertisement was approved prior to broadcast by CAD. During this approval process, the advertisement was given an M rating, which has been accepted and adhered to by the advertiser. The advertisement has only aired in time slots deemed by CAD to have an M rating. AMI's Women's TV advertisement fully complies with the commercial television rating guidelines relating to the times at which the advertisement is run.

For all of the reasons set out above, we submit that the advertisement does 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 considered the application of Section 2.3 of the Code, relating to sex, sexuality and nudity.

The Board noted the advertisement has an “M” classification, meaning it was appropriate for viewing by a mature audience, and is screened in “M” rated timezones. The Board considered the advertisement treated sex, sexuality and nudity appropriately for this classification and therefore found no breach of Section 2.3 of the Code.

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