



CASE REPORT

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| 1. Complaint reference number | 81/09 |
| 2. Advertiser | Advanced Medical Institute |
| 3. Product | Professional Services |
| 4. Type of advertisement | Outdoor |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 11 March 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This outdoor advertisement from Advanced Medical Institute shows a picture of a woman lying on top of a man in a bed. The wording on the billboard says: "Ladies. Faking it? Feel it for real! Call the doctors at Advanced Medical Institute 1300 404060." The words 'faking it' are in the largest typeface on the advertisement.

THE COMPLAINT

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

As a young woman from Sydney under the age of 25, I write to complain about a billboard advertisement that I saw advertising AMI's product for women. The caption on the billboard asked "Faking it?" and showed a man and woman having sexual intercourse. This scene should not be allowed in the public, for general exhibition, on the basis that the content is inappropriate for persons under 15. Our current film and television classification would normally deem "a couple having sexual intercourse" to be M rated material and refer to it as a "sex scene" and the billboard as having "sexual references". If therefore this billboard is M rated, why is it permissible on the sides of roads and in public spaces available for all ages viewing? This ad is inappropriate for public consumption, as it targets a personal problem of a private adult nature. If material is not for general exhibition, it should not be allowed on roads and public spaces. This material is on the side of that street twenty-four hours a day, seven days a week and affects all who see it. I ask you to consider the hundreds of children who would travel with their parents by car or bus who can see this advertisement on a regular basis. They would also be able to see it clearly from the sidewalk near Federation Square (where it is in public view) on a family outing.

Furthermore, the caption-question "Faking it?" asks women to reassess the truth of their orgasm which is a personal private matter and should be kept out of public view. It also encourages women to feel inadequate and insecure about their bodies. This advertisement is preying on the vulnerable.

Finally, AMI have been cautioned in the past for their advertisements: "Want longer lasting SEX?" so why have their subsequent unacceptable advertisements been allowed into the public viewing space.

I form a part of the community, and I ask you to reassess this advertisement's age appropriateness. Community standards have changed and they are not accepting AMI's advertisements in their public space. I am outraged that this advertisement is questioning my sexual integrity. And I urge you to remove this ad as quickly as possible.

Try explaining this one to school age children who can read....

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 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. The advertisement does not include any nudity. Whilst the terms "Faking It" and "Feel It For Real" may be considered by some people to have a double meaning, we do not believe that the advertisement treats sex or sexuality without sensitivity. Any sexual references arising from the advertisement are subtle and not obvious, with any inferences being indirect rather than direct. No child would be aware of any reference to sex arising from the advertisement unless they were already sexually aware. We also believe that the advertisement is less sexually explicit than numerous other public billboards which have previously been erected including billboards promoting the movie "Sex in the City" and billboards promoting cars and other consumer products.

Finally, we note that the independent market research report which was conducted by Galaxy Research on these types of issues found that 51% of Australians believe the phrase "want longer lasting sex" should be permitted on billboard advertisements for products which treat sexual health problems. The phrases used in this advertisement are much less explicit and we accordingly believe that a much higher proportion of the public would not have issues with these phrases or with this advertisement (as further supported by the fact that there appears to only be one complaint relating to this billboard despite its size and prominence in central Melbourne near Flinders Street Station where thousands and thousands of people pass by every day). As a consequence, we believe that the advertisement treats issues of sex and sexual with sensitivity and is in compliance with the code.

For the reasons set out above we submit that the advertisement does not breach 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 about the depiction of the couple, the reference to 'faking' orgasms and the impact on women of this sexual reference.

The Board considered the various elements of the billboard and noted that the product being advertised is a product related to sexual performance.

The Board considered that the text of the Billboard 'Ladies. Faking it? Feel it for real.' is a reference to sexual performance or satisfaction that would be understood by adult members of the community. The Board considered that the reference was unlikely to be understood, either as a specific or general sexual reference, by children.

The Board then considered the image of the couple. The Board noted that the couple are depicted with the man lying down depicted from the waist up, naked. The woman appears to be crouching over the man, she is wearing a camisole. Although suggestive of sex, the Board considered that the image does not depict the couple kissing or in an overtly sexualised position.

The Board noted that the advertisement is a billboard and therefore has a broad audience, including children. The minority of the Board considered that the image was too sexually explicit for the relevant audience (which includes children) and was in breach of section 2.3 of the Code. The majority of the Board considered that, considering the product being advertised is a sex related product, the image of the couple was relevant to the product and the words were discrete enough not to be understood by children. The majority of the Board considered that the advertisement did depict or describe sex, sexuality and nudity with sensitivity to the relevant audience and did not breach section 2.3 of the Code.

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