



## Attachment H(iii) - Case Report

1	Case Number	0464/10
2	Advertiser	Advanced Medical Institute
3	Product	Sex Industry
4	Type of Advertisement / media	Billboard
5	Date of Determination	24/11/2010
6	DETERMINATION	Upheld - Modified or Discontinued

### ISSUES RAISED

- 2.6 - Health and Safety - within prevailing Community Standards
- 2.3 - Sex/sexuality/nudity - Treat with sensitivity to relevant audience

### DESCRIPTION OF THE ADVERTISEMENT

Yellow background with red text which reads, "BE A MAN AND...HOLD YOUR LOAD!"  
Underneath in smaller, black text it reads, "Call or SMS "longer" to AMI 1800 411 411"

### THE COMPLAINT

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

*This billboard is outright offensive. The phrase 'hold your load' (in all caps no less) is an incredibly CRASS euphemism for the male orgasm and does not treat the topic with ANY respect whatsoever. The phrase 'be a man' is incredibly insulting and demeaning to this companies potential clients that actually have problems with premature ejaculation. It is a giant billboard on a major street that families pass constantly. I am glad MY children were not in the vehicle with me as I would not have wanted to field the topic of 'what's that mean dad?' or hear my 8yo son repeat the phrases on the billboard. Our children DO NOT need to be exposed to this. MOST of this company's billboard ads are nearly as offensive and I note that you have had multiple complaints about them. Perhaps they need to stick to advertising in male magazines where they will only harass their target audience and not the large portion of society (no matter what their experts say everyone \*I\* have spoken to finds the ads offensive) and leave billboards and such to companies that are capable of advertising without trying to offend and/or introduce sexual slang to our children?*

*The message on the billboard clearly identifies its target audience as males. It also clearly indicates that the psycho-physiological issue of premature ejaculation precludes you from being "a man". It is not possible that any reasonable person reading this ad (which is hard to miss given its massive size and positioning on Sherwood and Fairfield Rd) could interpret its message as anything other than vilification of men as a result of a medical/psychological problem.*

*The advertisement is clearly stating to both men and women that what defines masculinity is an ability to delay ejaculation during sex. This message is both incorrect and demeaning for all who are forced to read the billboard.*

*There is no sensitivity to any audience in terms of this advertisement's treatment of sex and sexuality. Again the message is quite clear that if you suffer from premature ejaculation you cannot define yourself as a male. This is not appropriate given that the location of the billboard is as you drive into a highly industrialised area (and hence read by a significant proportion of men). In particular men who suffer from this problem will already feel emasculated as a result of the close and integral link of sexuality to gender identity. To then have an advertisement reiterate that in such a gross manner is both vilifying and insensitive. One of the advertisements is also less than 800 meters away from Sherwood State School and as such is passed by numerous children going to and from school. Children of reading age would naturally be exposed to the content of this message and either be forced to ask their parents what this means or to understand and interpret it without assistance. Both the discriminatory and oversexualised nature of this message can be interpreted by developing minds at face value and the face value of the message is both incorrect and demeaning to men.*

*I am no prude far from it but this one is absolutely unnecessary and placed where children will see it every minute of every day. How do these things get approval? I for one do NOT want to have to explain to my primary school aged children what it means.*

*The sexual connotation is offensive bringing to the mind's eye a revolting picture that should not be imposed on the general public at any time or place.*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*Based on past decisions made in relation to AMI, we understand that the core sections of the code which are relevant are:*

- 1. section 2.1 of the code which requires that the advertisement not contain material which discriminates against or vilifies a person;*
- 2. section 2.3 of the code which requires advertisements to treat sex, nudity and sexuality with sensitivity to the relevant audience and the relevant programme time zone;*
- 3. section 2.5 of the code which requires advertisements and/or marketing communications to only use language which is appropriate in the circumstances and to not use strong or obscene language; and*
- 4. section 2.6 of the code which requires that advertisements not depict material which is contrary to prevailing community standards on health and safety.*

*Please let us know if the board intends to consider any other section of the code so that our client is afforded a reasonable opportunity to make submissions on the matter as it is our present understanding that no other section of the code is relevant to this advertisement. Without limiting the foregoing, we note that the communications are not directed to or targeted at children and do not contain any obscene or coarse language. We accordingly submit that section 2.5 of the Code is not relevant to this advertisement, however to the extent that section 2.5 of the Code is considered to encompass general community attitude issues we refer you to our comments relating to section 2.3 of the Code below.*

*The advertisement does not involve any dangerous activities. We accordingly submit that the advertisement does not infringe section 2.6 of the code in any way.*

*The advertisement does not use discriminatory language of any kind. It does not seek to be critical of persons in any way and deals with these legitimate medical problems in a positive way. In making these comments the advertisement makes an inference that people who have this condition are not uncommon and should not be embarrassed about their condition. We accordingly submit that the advertisement does not infringe section 2.1 of the code in any way.*

*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. As you are aware, our client commissioned an independent market research report 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 larger section of the community opposes 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/O.21590.24239765-2761,OO.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.*

*We are aware that the board has separately commissioned its own research in relation to these matters. Whilst we understand that the Board's research indicates that a section of the community do not like AMI's advertising we believe that a significant portion of these*

*concerns are related to the size and extent of AMI's advertising rather than the content of them.*

*As a result, we submit that whilst the advertisement might be considered to portray issues of sex and sexuality, we submit that it does so with the appropriate level of sensitivity having regard to the audience and medium in which it has been presented. We also note that it has considerably less sexual references than many other billboards which have been approved by the board.*

*Consequently, 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 audience and that there is accordingly no breach of section 2.3 or section 2.5 of the Code.*

*For all of the reasons set out above, we submit that the advertisement does not breach section 2 of the code and that the complaint should be dismissed.*

## **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 complainants' concerns that the advertisement is offensive; contains a highly sexualised phrase; a clear and offensive reference to sex; uses inappropriate sexual innuendo, and is insulting and demeaning to men; vilifies men as a result of a medical/psychological problem and is detrimental to men's physical and emotional health; the language is strong and obscene; is inappropriate for children to see and breaches the Advertising to Children Code.

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 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 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 text of the advertisement (in particular the suggestion that you are not a man if you experience premature ejaculation) 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 suggest 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 and breached 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 sex related product and that reference to sex is 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 advertising on a billboard.

The Board considered that the wording 'hold your load' is clearly a sexualised term which refers to male ejaculation – it is not subtle. The Board considered that this is a highly sexualised reference.

The Board considered that the placement, size, bold colours and blatant message of the advertisement mean it is likely to be confronting to viewers and that the billboard format means that the entire community may be exposed to it, with its messaging reaching beyond that of the target audience.

The Board considered that the clear and highly sexualised reference to male ejaculation in an outdoor format did not treat sex, sexuality or nudity with sensitivity to the relevant audience. The Board determined that the advertisement breached section 2.3 of the Code.

The Board also considered the issue of children's exposure to the advertisement. Whereas advertisements in other mediums may limit the relevant audience, the nature of billboards means that there is no practicable way for the community to control their exposure, or their children's exposure, to the billboard content. The Board considered that the term 'hold your load' was not likely to be understood by young children and would not be considered sexualised. However the Board considered that older children (certainly young teenagers) would be likely to understand the reference. The Board considered that while this advertisement does not sexualise children it brings the issue of sex before them in a manner that is not sensitive and is in breach of section 2.3 of the Code.

The Board then considered section 2.5 of the Code. Section 2.5 requires that 'advertising or marketing communications shall only use language which is appropriate in the circumstances and strong or obscene language shall not be used.'

The Board noted that the advertisement purports to deal with a medical disorder or a male health issue. The Board determined that the words hold your load were not medical or clinical in nature and were in fact a blatant message about a sexual act. The Board noted that the term is a colloquial term and that therefore the language on the billboard could be said to be subtle and innuendo. However the Board considered that the term 'hold your load' was not appropriate language to use in the circumstances of this particular advertisement's format and

message as most people would consider it a blatant and highly sexualised reference to male ejaculation. The Board determined that the advertisement breached section 2.5 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 a person is not a man if they suffer from premature ejaculation 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 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.

The Board noted the content of the billboard and reviewed this advertisement under Section 2.3 of the Code which states: Advertising and Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone.

The Board also acknowledged that recent research conducted into community standards, conducted by the Advertising Standards Bureau, suggested that this treatment of sex in advertising would be unacceptable to the community and as such the Board agreed that the advertisement was in breach of Section 2.3 of the Code.

The Board noted that this advertisement is not directed primarily at children and is not for a children's product and that therefore the AANA Code for Advertising and Marketing Communications to Children does not apply.

Finding that the advertisement was in breach of section 2.1, 2.3 and 2.5 of the Code the Board upheld the complaints.

## **ADVERTISER RESPONSE TO DETERMINATION**

AMI will comply with the ruling and will remove the billboard. There is only 1 billboard but it is interstate and it will take until the end of next week for it to be removed (there is some work to be done for this to occur).

