



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0109/12</b>
<b>2</b>	<b>Advertiser</b>	<b>EMI Music Australia</b>
<b>3</b>	<b>Product</b>	<b>Entertainment</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Internet</b>
<b>5</b>	<b>Date of Determination</b>	<b>28/03/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

- 2.5 - Language inappropriate language
- 2.5 - Language Strong or obscene language
- 2.3 - Violence Cruelty to animals
- 2.3 - Violence Violence

### DESCRIPTION OF THE ADVERTISEMENT

Rapper/hip hop artist 360 speaks direct to camera to introduce and promote his album 'Falling and Flying' saying, "Go and buy this or I'm gonna kick your dog in the fucking head". Although the sound is muted when he says "kick your dog in the fucking head" you can see him mouth the words.

### THE COMPLAINT

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

*The part where he states if you dont buy my album i will kick your dog in the effing head. The person who says he is 360 tells you to go and buy his cd or he will..."@# .. he mouths the words of what he will do even though they are not spoken aloud. I find this offensive that someone is threatening violence for not purchasing their product and using the f word even if it is only mouthed not actually said aloud.*

*During the advert the guy called "360" said "buy the CD or I'll kick your dog in the fucking head" and laughed. Fucking was bleeped out but you could still understand what he was trying to say. I think that it is terrible to joke about kicking animals in the head just so that you can get CD sales. To be able to finish watching my shows I had to see this ad every time*

*there was an ad break so I probably saw it about 18 times in the space of just over 2 hours and every time I saw it I was more disgusted.*

*360 says in the advertisement "Go out and buy my new album or I'll kick your f^\$\*(^% dog in the head" Yes this content is bleeped out but it is clear that is what he is saying.*

*I find the language and his words completely offensive and unnecessary. I wonder if the RSPCA would find this ad as amusing as 360 does?*

*Also I don't believe it is appropriate to be playing this ad online during an episode of Modern Family.*

## **THE ADVERTISER'S RESPONSE**

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

*We are writing in response to two complaints received by the Advertising Standards Bureau in relation to the 360 'Falling and Flying' album advertisement as featured on Network Ten's online 'Catch Up TV' service at ([www.ten.com.au](http://www.ten.com.au)).*

*In consultation with our creative agency (DMC Digital) and media booker (Razor Brand Agency), the 360 'Falling and Flying' advertisement was submitted for classification and review in line with standard procedures prior to broadcast. The review included the following process:*

*Please note that three different versions of the advertisement were made:*

*2 x 30 second advertisements for TV broadcast only*

*1 x 15 second advertisement for Digital/Online use only (the complaints in question relate to this digital/online advertisement)*

- Prior to broadcast, the two 'TV only' versions of the advertisement were put through the CAD classification process.*

- The TV advertisements were rated M and PG respectively and scheduled for broadcast accordingly - reference numbers for this classification have been supplied in our response.*

- The advertisement for digital/online use was supplied to Network Ten solely for online use via 'Catch Up TV'.*

- Network Ten advised our media agency (Razor) that online TVC's did not require CAD classification but instead are reviewed and approved internally by Network Ten (emails confirming this process from Network Ten have also been supplied with this response).*

- After reviewing the advertisement, Ten determined that the ad was unsuitable for broadcast on children's programming on Catch Up TV and would accordingly be excluded from such programs which included Young Talent Time, Scope and Totally Wild.*

- The subsequent scheduling of the advertisement on Catch Up TV was at Ten's discretion and in line with the findings of their internal review of the advertisement.*

*EMI is confident that appropriate steps have been taken to ensure the advertisement was classified for the correct audience.*

## **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 suggests violence towards animals and uses offensive language.

The Board reviewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 of the Code states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised."

The Board noted that the advertisement features the rapper, 360, asking viewers to buy his CD and that the part where it appears he says, “...or I’m gonna kick your dog in the f\*\*\*ing head” is beeped out so that we can see his mouth saying the words but cannot hear them.

The Board noted the complainants’ concerns regarding the suggestion of violence towards an animal and considered that whilst the statement that is beeped out is unpleasant, the artist is smiling as he says it and most members of the community would consider his statement to be consistent with a rapper playing up to the expected bad-boy image.

The Board considered that the advertisement did not present or portray violence and did not breach Section 2.3 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided.”

The Board noted that the sound has been muted when 360 uses the ‘f’ word. The Board considered that consistent with previous dismissed determinations (422/10, 0086/11, 277/11) the use of a beep over a swear word would be considered not offensive or inappropriate by most members of the community and that the advertisement did not use strong or obscene language.

The Board determined that the advertisement did not use strong or obscene language and did not breach Section 2.5 of the Code.

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

