



## CASE REPORT

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| 1. Complaint reference number | 135/09   |
| 2. Advertiser                 | Jamba GmbH   |
| 3. Product                    | Mobile phone downloads   |
| 4. Type of advertisement      | TV   |
| 5. Nature of complaint        | Discrimination or vilification Gender - section 2.1<br>Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination      | Wednesday, 8 April 2009  |
| 7. DETERMINATION              | Dismissed  |

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement promotes mobile telephone downloads. It commences with a model standing next to a car, she appears to be wearing bikini pants, her breasts and bikini bottoms are covered with large stars. The woman has the equipment to wash the car, however she is rubbing herself with the sponge. The advertisement cuts to a number of scenes where girls, again covered with stars, are washing themselves. The voice over provides a number of codes to send to obtain more images and videos of the girls.

## THE COMPLAINT

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

*I was watching a film about submarines and did not want to see continuous ads about sex - a woman washing herself naked on a car. I should'nt have to be bombarded with the Lust mobile ad where there are no stars when she sits on the car just a light grey transparent strip. I want to watch my show in peace. I am not seeking a show with sex and i do not expect or want to watch sex ads during my show.*

*Because it totally objectifies women as sex objects. There is absolutely no other reason for these ads, they are like a brothel on a mobile. I dont care if people want to go out and pay for sex, no problem with two consenting adults. But these ads appear every single ad break after midnight, and they really upset me because as I say, the women are depicted as nothing more than visual sex toys, That makes me feel very offended and upset. I don't think this should be on free to air television, after midnight or not.*

## THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

*In regards to this spot, it does belong to us however I would like to include this as our direct response answer to this "complaint".*

*As far as Jamster is concerned the complainant has no problems with the advertisements in regards to its specific nudity which they clearly state has been covered with stars and or a "too hot to show" sign. What the complainant is disgruntled about concerns the genre of adult content in general. The adult content business is a multi-billion dollar business and in regards to this one complaint I cant see how any action can be taken against Jamster in order to stop this advertisement as the complainant will just complain about any "sexy" advertisement we place or a competitor places on television.*

*The frequency of these “sexy” TVC’s being shown seem to be the issue, I must stress here that we only repeat a spot when it performs well and we make sales. Judging from the sales we have received for this and other TVC’s, this complainant belongs to a very small section of the community. The idea that this is objectifying women is a matter of personal opinion of Ms Begnet and in this sense Ad Standards would have to ban not only this specific TVC but all adult entertainment and advertisements therefore because the complainant is more concerned with the objectification of women. We will leave this in the hands of Ad Standards and eagerly await their decision however we feel that this is a case that requires no reaction other than to answer the complainant which we have now done.*

## **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 complainant's concerns about the sexualised depiction of women in the advertisement and considered the application of Section 2.3, relating to sex, sexuality and nudity and Section 2.1, relating to discrimination and vilification on the basis of gender.

The Board noted the advertisement was directed towards a mature audience and screened in a late timezone appropriate to an adults only classification that would include higher level sexual content. The Board considered the nudity and sexuality depicted in the advertisement was consistent with an adults only classification and the relevant timezone, and therefore found no breach of Section 2.3 of the Code.

The Board also considered that the depiction of the women in poses that were sexualised and with obscured nudity was not, of itself, discriminatory or vilifying of women generally and therefore determined the advertisement did not breach Section 2.1 of the Code.

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