



## **CASE REPORT**

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|-------------------------------|------------------------------------------|
| 1. Complaint reference number | 145/09                                   |
| 2. Advertiser                 | Jamba! GmbH                              |
| 3. Product                    | Mobile Ring tone                         |
| 4. Type of advertisement      | Pay TV                                   |
| 5. Nature of complaint        | Language – use of language – section 2.5 |
| 6. Date of determination      | Wednesday, 22 April 2009                 |
| 7. DETERMINATION              | Upheld – discontinued or modified        |

## **DESCRIPTION OF THE ADVERTISEMENT**

This Jamba/Jamster television advertisement is for mobile phone ringtones. Ad depicts males moving in a sexually suggestive manner with the words “jizz in my pants” spoken, displayed on screen and used in lyrics of song. Viewers are asked to text 19 4000 to subscribe to Jizz3 Realtone or Jizz4 for the full length song text.

## **THE COMPLAINT**

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

*"Jizz in my pants" is a crude description of ejaculation. This is hardly appropriate. I have a young daughter, but thankfully she is too young to understand what this means. I would hate to have to explain to her what "Jizz in my pants" means. I have a sense of humour, but this ad is just stupid and offensive.*

## **THE ADVERTISER'S RESPONSE**

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

*We have received a few complaints regarding the Jamster ringtone commercial (1159 series) and to be more exact referring to the content within the spot selling a ringtone named “jizz in my pants”. We at Jamster have taken serious note of this complaint, and have undertaken an internal review of the complaints and through this response seek to address the issues raised.*

*Jamba/Jamster was founded in 2000 in response to the growing demand for mobile services and has since grown to become one of the largest providers of mobile content and services in the world. Jamba has around 800 employees based throughout Europe/US and Australia with our headquarters based in Berlin, Germany. It is our aim to become a global force in the mobile entertainment markets. To that end we continuously strive to make our brands synonymous with quality, value and the highest level of customer service. As such, we have dedicated teams whose sole responsibilities are to ensure that we comply with the legal requirements of each country we operate in, including Australia.*

*We launched our operations almost 4 years ago in Australia and work closely with regulatory advertising bodies including AANA and Commercials Advice / Free TV (CAD) and all of our media partners to ensure we meet the present standards of Australian society.*

*We have read through the frustrations of the complainants in relation to the content in which there is claimed to be “extremely offensive” using “inappropriate language” as well as being shown to children.*

*We would at this point like to point out that the advertisement in question is selling a ringtone which has been watched by nearly 30 million people on youtube.com This song has no sexual nature what so ever and the phrase “Jizz in my Pants” is compared to regular daytime movie like i.e. “American Pie” way less offensive. At no point is anything to see which shouldn’t be seen by minors and Jamster in general as well as this TVC follow the strict guidelines for delivering mobile content in Australia.*

*Jamster takes this complaint and concerns of these nature very seriously and we remain in the belief that the advertisement in question “Jizz in my Pants” is one which has taken every possible precaution to ensure it’s confirm with the guidelines. However we feel claiming the TVC is offensive is something in the viewers choice and not in our hands to correct. Through this letter we at Jamster feel as if we have addressed the main issues in concern.*

*Jamster intends to be a leader in social standards and as a result of this action we feel as if the issues raised by the complainants will now have been solved as a result of our reply.*

## **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 regarding the language and sexual references featured in the advertisement and considered the provisions of the Code relating to sex, sexuality and nudity (Section 2.3) and language (Section 2.5).

The Board also noted that it had previously considered the same advertisement in regard to its broadcast on free to air television (Case Reference Number 83/09) and had upheld the complaints.

The Board noted the ringtone depicted in the advertisement featured the lyrics "jizz in my pants", which was also shown in text on the screen. The Board noted that the ringtone is from a popular song circulating on YouTube by 'The Lonely Islands'. The Board noted that the word "jizz" is understood colloquially to be a reference to semen and would be understood as that by a significant section of the community. The Board noted the convulsive movements of the characters depicted in the advertisement when those lyrics were heard and considered them to be sexually suggestive.

The Board considered that the sexualised language and accompanying suggestive movements used in the advertisement were inappropriate and therefore determined that the advertisement breached both Sections 2.3 and 2.5 of the Code and upheld the complaints.

## **ADVERTISERS'S RESPONSE TO THE DETERMINATION**

Comments which the advertiser made in response to the determination regarding this advertisement included the following:

*The advertisement isn’t live on Australian television anymore.*