



## **CASE REPORT**

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|-------------------------------|---|
| 1. Complaint reference number | 198/08  |
| 2. Advertiser                 | Adultshop.com                                   |
| 3. Product                    | Mobile Phone/ SMS                               |
| 4. Type of advertisement      | TV  |
| 5. Nature of complaint        | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination      | Wednesday, 11 June 2008                         |
| 7. DETERMINATION              | Dismissed                                       |

## **DESCRIPTION OF THE ADVERTISEMENT**

The advertisement begins with a close up of a young brunette woman's face. The bottom section of the screen has a black band on which text is displayed: SexTV.com.au. As the advertisement continues the bottom section of the screen displays subscription costs and opt out details.

A female voice over states: Sex TV has arrived...

Camera pans out and the young woman is now shown on a mobile phone screen. The camera pans down and shows the woman in a leopard print bra, as she flicks the shoulder strap down and runs her hand across her breast.

The voice over continues: ... to bring hot videos of sexy amateurs to your mobile. Your first video is free, to see it now text 'free' to 19 11 33

The phone number and other key words of the voice over are displayed onscreen in large pink text.

The image on mobile screen changes to the torso of a topless woman, a black bar is placed across her breasts to obscure nipples. She rubs her hand across her breasts and down her torso.

Voice over: That's right get thousands of babes performing for you by texting 'free' to 19 11 33.

The image on the mobile screen changes to a head and torso shot of a blonde woman in a white bikini top. She appears to be in a bathroom. The woman unties her bikini top...

Voice over: These girls are too hot for TV, so get them straight to your mobile. Text 'free' to 19 11 33

The final shot begins with a close up of the blonde woman's breasts (the nipples are obscured by a black bar), the camera pans up as the woman sucks her finger in a seductive manner and blows a kiss to the camera.

The voice over concludes: ...and remember, the first video is free.

Text on screen: Text FREE to 191133.

## **THE COMPLAINT**

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

*I object to that pornography at a time on a Saturday night and at a reasonably early time when I as an adult woman would not expect to be affronted with it. Especially as the movie was rated M, I would therefore expect the advertisements to reflect that rating not R or X advertisement.*

## **THE ADVERTISER'S RESPONSE**

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

*It has come to my attention that our Sex TV television advertisement, currently being shown on the Imparja channel, has recently received a complaint. Reasons due to supposed R and X rated content appearing within the ad and for being inappropriately shown in a 10pm – 11pm time slot.*

*To start firstly, the content itself is certainly not R or X rated and was thoroughly checked to*

*ensure that it met the M rating outlined by the Office of Film and Literature Classification (OFLC). The advert does not contain any nudity and only shows girls from the waist up with all exposed breasts covered with a black bar. Limited sexually suggestive contact such as hand to breast touching is allowed within the M rating so long the touching is not sexually aggressive. This is the case in the ad; it is mild and tame touching by the owner's hands only.*

*We need to show this footage as it is the exact content and type of content that gets sent out to the subscriber. It is reflective of accurate advertising as we show the same type of footage the customer receives to ensure that they know exactly what they are buying.*

*It is perfectly acceptable to have an M rated ad shown in the evening timeslot of 10pm-11pm. This is especially the case if the movie itself was also rated M. It is also certainly not a reasonable 'early time' as the complaint suggests. Most children are asleep by this point in the evening and the majority of people watching television are adults.*

*In regards to what is happening in Aboriginal communities this advert does not promote any type of negative action or behaviour. It is an M-rated ad simply shown within a movie of the same rating. Individuals are responsible for their own actions and it is atrocious to think that by showing this ad it will incite negative behaviour. If that were the case all M rated content should be pulled off the air.*

*In our opinion this ad should definitely continue to be shown on Australian television. We are following all the guidelines and are advertising within material of the same rating. In any case if you require any further details relating to this matter, please don't hesitate to contact me on the details below.*

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board viewed the advertisement and considered whether it breaches Section 2.3 of the Code dealing with sex, sexuality and nudity.

The Board noted the complainants' comments that the advertisement contained excessive sexual content and was pornographic.

The Board noted that the advertisement contained no nudity, as there were no bare nipples or genitalia on display. The Board considered that when the audience and time slot were taken into account along with the nature of the product being advertised, the advertisement did not treat sexuality insensitively enough to warrant the advertisement's removal from air.

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