



## CASE REPORT

1. Complaint reference number	246/08
2. Advertiser	Jamba GmbH!
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, 9 July 2008
7. DETERMINATION	Upheld – discontinued or modified

## DESCRIPTION OF THE ADVERTISEMENT

The advertisement begins with a pixelated image, music and a female voice over stating: 'That's hot, watch Kasey and Aaralyn massaging each other, just SMS V16.' The pixelated image zooms out and becomes clear. It shows two women in bikinis, one woman bent forward while the other kneels behind her massaging her bottom (obscured by a star). The first girl licks the other on the bottom. They are then shown licking each other's tongue. The image is displayed on a television set on the right of the screen and the phone number 191212 is printed below. The top of the screen reads: 'Sexy Downloads Sexy Images'. The bottom of the screen displays the contact details, disclaimers and conditions. On the left of the screen are five descriptions and codes to order them. Kasey & Aaralyn nude V16, Hot Babes Wet & Dirty V17, Rockery Glamour V18, Two Hot Girlfriends V19, 2 Girls 1 Bath V19. The voice over continues to describe the images displayed on the screen: 'Check out these two beauties getting wet and dirty. Simply text V17.' The image displayed shows two naked women, breasts obscured by stars, in a bubble bath. One is rubbing the others back as they laugh. On screen image shifts to two different women. One is kneeling behind the other, removing her underwear. Again, their breast and bottoms are obscured by stars. Voice over states: 'Mmm, don't you just want to be part of this. Subscribe and send V18 if that's what you want.' The next image is again of two girls. One girl has her face in front of the other girls groin and is tentatively removing her bikini bottom. She licks the other girl just above the bikini line. The voice over continues: 'Watch me and my girlfriend playing by the pool. Just SMS V19. And finally get this too hot to show video. Mmmm... two girls, one bath. Just SMS V20 and send to 191212. Text on the small TV screen is '2 GIRLS, 1 BATH'.

## THE COMPLAINT

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

*I don't think kids or adults for that matter need to see that kind on advertising, if I want porn I will get it. I don't need to be subjected to that, it is very confrontational.*

## THE ADVERTISER'S RESPONSE

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

*We have received 1 complaint regarding the Bubble Mob "Sexy Girlfriends" commercial (974 series) and to be more exact referring to the content within the spot pertaining to the excessive or more repeated sexual nature of the spot. We at Bubble Mob have taken serious note of this complaint, and have undertaken an internal review of the complaint(s) and through this response seek to address the issues raised.*

*Jamba (Bubble Mob's parent Company) 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 600 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 complainant in relation to the content in which there is claimed to be "excessive" sex/nudity. We would at this point like to point out that the advertisement in question is at an adult time slot and therefore watched by an adult audience, and is not shown "All day all VHI programmes" as referred to by the complainant. In relation to the content and the complaint itself: At no point are any bare breasts nor bare nude shots of any sort shown, especially in specific reference to the "2 Girls 1 Bath" video which the complainant specifically referred to. Any nudity in the other videos sold is in our perspective covered over tastefully with large stars in order not to offend any viewers with excessive nudity.*

*Bubble Mob takes this complaint and concerns of these nature very seriously and we remain in the belief that the advertisement in question "Sexy Girlfriends" is one which has taken every possible precaution to ensure there is no visual of sexual contact or overt nudity. The TVC in question does have an erotic nature however we feel strongly that this does not surpass any excessive nude / sexual boundaries and through this letter we at Bubble Mob feel as if we have addressed the main issues in concern.*

*We will continue to defend the airing of this advertisement in its original form however we can not, and will not defend people's creativity in assuming / fantasising what could possibly be behind the "stars" and "titles of videos" in this case "2 girls 1 bath".*

*Bubble Mob intends to be a leader in social standards and as a result of this action we feel as if the issues raised by the complainant 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' concern that the advertisement was inappropriately sexual.

The Board viewed the television advertisement and agreed that the interaction between the two women depicted went beyond mere suggestion.

The Board noted Section 2.3 of the Code which states that 'advertisements shall treat sex, sexuality and nudity with sensitivity to the relevant audience and where appropriate, the relevant programme time zone.'

The Board then noted that this advertisement is aimed at the adult male market and is only able to be shown on television after 11pm.

The Board further noted that the two women in this advertisement are either clothed - albeit in lingerie; or have their breasts and genitals hidden behind stars.

The Board considered that the advertisement is risqué and sexually explicit and noted images of two women touching each other using both their hands and tongues.

The Board discussed that in the past they had examined advertisements that contained still images and that as such no explicit sexual activity had been depicted. However in this advertisement as the images are live interactions the advertisement has moved beyond from passive imagery to active engagement.

The Board further noted that the more explicit action shots of the girls are pixelated. However the

Board considered that the pixelisation does not reduce the impact of the sexual act.

The Board considered that this advertisement was extremely overt and left nothing to the viewer's imagination.

The Board considered that the advertisement was not appropriate even for the late night time zone and was in breach of Section 2.3 of the Code. Finding that the advertisement breached Section 2.3 of the Code the Board upheld the complaint.

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

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

No response was received at the time of printing this report.