



## **CASE REPORT**

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|-------------------------------|------------------------------|
| 1. Complaint reference number | 253/08                       |
| 2. Advertiser                 | Jamba! GmbH                  |
| 3. Product                    | Mobile phone/SMS             |
| 4. Type of advertisement      | TV                           |
| 5. Nature of complaint        | Violence Other – section 2.2 |
| 6. Date of determination      | Wednesday, 13 August 2008    |
| 7. DETERMINATION              | Dismissed                    |

## **DESCRIPTION OF THE ADVERTISEMENT**

This television advertisement features a guitar flying towards the screen with a male voice over announcing "Yeah. 100% rock and roll from Metallica's "One" text Rock 21. Or prefer Acca/Dacca (AC/DC) - they're "Back in Black" Rock 22. And subscribe for the "Number of the Beast" Rock 23. Fro Aerosmith and "Janie's Gun" SMS Rock 24. And finally Guns 'n' Roses "Sweet Child of Mine" text Rock 25 and send to bloody 19 12 12.

## **THE COMPLAINT**

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

*The ad is just as any usual mobile phone ringtone advertisement except it has a vicious male voice yelling out what ring tones they are offering and at the end it states what number to use to subscribe for the ring tone "and send it to bloody 19 12 12". The fact that this advertisement is using language that may offend others such word as "bloody" is not something that should be said over TV. The fact that this advertisement is broadcast during a popular kids show (The Simpsons) and has this language in it is not acceptable to my opinion. We see enough of these advertisements that they bombard us with asking them to buy ringtones that cost \$50 in the fine print, these advertisers have gone too far and crossed the line by swearing. I strongly ask for this advertisement to be taken off the air.*

## **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 email complaint regarding the Bubble Mob "RockHits" commercial (982 series) and to be more exact referring to the voice over within the spot pertaining to the "viciousness" of the voice over and the wording used there within. We at Bubble Mob have taken serious note of this 1 single complaint, and have undertaken an internal review of the complaint 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 1.5 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 advertisement in which there is “claimed” to be offensive and/or inappropriate wording such as the commonly used expression “bloody”. In relation to the complaint itself: That the complainant refers to the word “bloody” as being a swear-word and not appropriate for children’s TV comes as a surprise to us at Bubble Mob. The simple fact is that this word has been widely used in the TV show that the complainant claims to be watching “The Simpsons”, but yet the complainant has no problem with the use in the Simpsons context. (Please refer to Simpsons episode where the Simpsons travel to Australia for a minimum of 4 referrals to the word “bloody”).*

*Bubble Mob takes this complaint and concerns of this nature very seriously and we remain in the belief that the advertisement in question is a “Rocktones” spot and therefore requires the speaker to have a louder voice as is generalised in most rock music. We believe that the complainant doesn’t necessarily have a problem with the advertisements language per say, rather the frequency of the advert: as stated in the complaint. We will not defend the repeated usage of our quality TV advertisements nor do we believe there is a case to answer re: this complaint, as the TV show the complainant is watching contains the word “bloody” plus numerous other words that are much more offensive to children than “bloody”. We would purely suggest the complainant takes a more active role in their children’s program selection. 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 extreme sensitivity to some advertising. 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 concerns of the complainant and reviewed this advertisement under section 2.2 of the Code that deals with the use of language.

The Board viewed the television advertisement and found the use of language to be acceptable.

The Board considered that there the word was a very minor part of the advertisement and that the word would not be heard by most of the viewing audience as it was delivered without any extra emphasis.

The Board noted that the word ‘bloody’ was an example of a term currently used innocuously and widely in the Australian community and therefore was not in breach in section 2.2 of the Code.

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