



CASE REPORT

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| 1. Complaint reference number | 334/09 |
| 2. Advertiser | JambaGmbH (Lust Mobile) |
| 3. Product | Mobile phones |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3 |
| 6. Date of determination | Wednesday, 22 July 2009 |
| 7. DETERMINATION | Upheld – discontinued or modified |

DESCRIPTION OF THE ADVERTISEMENT

This television commercial has a range of images relating to the voice over script.

The image of brunette woman with superimposed ‘large pink lips’ to cover her breasts and bottom accompanied by voice over “Uhhhh - this summer is too hot to handle. Watch Tera getting naked by the pool, just SMS X5.”

The next image is of a blonde girl whose bottom is covered by the superimposed ‘lips’, she appears to rub her hand near her bottom and then shown to be sucking her fingers accompanied by the voice over “19 year old Nikki sure can’t wait for her private picnic, join her with X6, WOW”.

The image of a blonde woman with superimposed ‘large pink lips’ to cover her breasts and bottom accompanied by voice over, “Chelsea is all wet and sweaty... want to see what happens next? Just text X7”.

The last image is a TV screen with the words “2 hot 2 show” accompanied by voiceover “And subscribe to check on this filthy Latina in her backyard text X8 and send to 191 555”.

THE COMPLAINT

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

Near naked women in sexually explicit positions with obscene voiceovers attempt to get people to subscribe to receiving pornography on their mobile phones.

The advertisement is morally obscene and offensive to the majority of both male and female viewers due to it's sexually explicit nature. In addition, the ad is degrading to women and denigrates them to sex objects. Finally, the subscription not only preys upon the vulnerable and lonely, but consists of exorbitant continuing financial (not to mention psychological!) cost. A Prostitute is bending over in a Graphic, highly Sexually Suggestive manner with Pink Lips to supposedly obscure the private parts of large cosmetically enhanced breasts & Vaginal area. The voice over is saying something like "See What Happens Next" & "Let's Get Wet & Sweaty" in a Sexy Suggestive Voice while Pulling at Underwear.

THE ADVERTISER’S RESPONSE

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

While every effort is made to ensure certain genre's of our content is themed to the time of day for which it is broadcast, it can unfortunately be viewed by sections of the community which may at times find it offensive. This in its very nature is something all advertisers face as we live in a

community that employs freedom of speech and one's life choices.

While we do have CAD approval on this 30 second spot, its target audience is certainly a mature male audience, and for those that may be awake at such a late hour it DOES NOT MENTION THE WORD SEX OR SEX SCENES, SHOWCASE ANY SEX SCENES or use the word pornography. While the complainant was unfortunately nursing her son, it seems that the movie itself that our TVC did air could be deemed inappropriate no matter how much of a distraction to her son. "The Man Who Wasn't There" is set in 1949, Santa Rosa, California. A story about a laconic, chain-smoking barber with fallen arches tells a story of a man trying to escape a humdrum life. It's a tale of suspected adultery, blackmail, foul play, death, Sacramento city slickers, racial slurs, and aliens. The barber cuts hair in his in-law's shop; whose wife drinks and is having an affair with her boss. A movie that itself was showcasing adultery, foul play and sex scenes is itself an MA rating in Australia and rated R in other markets, so a duty of care should have been undertaken by the mother and her son to ensure a more suitable entertainment choice such as a DVD would have been more appropriate. Also it is in black and white.

The TVC is targeted at a certain segment of the market, for which we have received no complaints to date.

The actors in the TVC are just that, only actors. The TVC does not suggest prostitution nor do we encourage such alternative lifestyles.

We will certainly give careful consideration to the time of day in which this TVC continues to air.

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, that the depictions are sexually graphic and that the advertisement is degrading to women.

The Board 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 noted that in all images the women's genitals and breasts were obscured by the 'lips' motif. The Board considered that this depiction of nudity was not inappropriate for this timezone.

The Board noted that the product advertised is sexual in nature and that advertising the product in this manner is permissible in certain timezones. However the Board is still required to consider whether the sexuality is treated with sensitivity to the relevant audience and timezones. The Board considered that this particular advertisement went further than being merely sexually suggestive and that the depiction of the woman putting her hand near her bottom and then licking her fingers is highly sexualised and not sensitive to or appropriate for even a late night audience.

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.

The Board noted a complaint that a child had viewed the advertisement. The Board noted that late night television does permit advertisements and programs with more graphic sexual content and that parents should be aware that these can be unsuitable for children.

Finding that the advertisement did not treat sexuality, and sex with sensitivity to the relevant audience the Board determined that the advertisement breached section 2.3 of the Code and upheld complaints.

ADVERTISERS'S RESPONSE TO THE DETERMINATION

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

The spot was taken off air on the 5th of July.