



CASE REPORT

1. Complaint reference number	424/07
2. Advertiser	Jamba! GmbH (Jamster Rude Fun Ringtones)
3. Product	Mobile phones/SMS
4. Type of advertisement	TV
5. Nature of complaint	Language – use of language – section 2.5
6. Date of determination	Tuesday, 11 December 2007
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for mobile phone ringtones which can be downloaded, begins with a voicemail announcing 'Get these swearing funsounds at Ringtoneking, and have some fun. For "Its ringing, its ringing the BEEP phone is ringing, text fun13. Get "Oi BEEP head, answer the phone", text fun14. Or for "But in this case, you little BEEP answer the BEEP phone", send fun15. Or for "laughing" text fun16. Or want this? "She's fat, she is round, she bounces on the ground it's your mum...", text fun17. Or for this guy, "Get out of BEEP bed, get out of bed you lazy...", text fun18 and send to 191818 now.'

THE COMPLAINT

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

Ringtones which involve the person in the tone swearing certain words we would never want to hear in public, especially on someone's phone. The ad is on during the daytime. However unlike every other ad, every ringtone has swear words. Even if they're "bleeped" out it is pretty obvious the "F word" is one of the most common. Is this what we're encouraging during the day, kids and other people at home that such ringtones are ok? This is disgusting really.

*It is an ad for ringtones (about 6 of them) all of which contain expletives. One refers to pick up the f*****g phone. another about your mother being fat and all the others have f**k in the title. Although they are bleeped out, it is totally obvious what they are saying and are unnecessarily rude. Ringtones like this shouldn't even be sold let alone advertised in the middle of the day.*

THE ADVERTISER'S RESPONSE

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

We at Ringtoneking have taken serious note of these complaints, and have undertaken an internal review of the complaint and through this response seek to address the issues raised. 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 understand the frustrations of the complainants in relation to the content in which there is excessive "bleeping". The content: referring to "THE ***** PHONE IS RINGING" and or "GET OUT OF THE ***** BED" was in no way intended to offend members of the Australian public. Ringtoneking went to the extra lengths to avoid any possible offence by putting extra ****

stars over the wording and ensuring that the swear words did not even contain a single letter which may result in the general public associating a specific swear word with the content written on the screen.

Ringtoneking takes this complaint and concerns of these nature very seriously and we remain in the belief that the advertisement in question “Rude Funsounds” is one which has taken every possible precaution to ensure there is no possible way of associating a swear word with what appears on the advertisement. There is significant bleeping on the TV advertisement and stars which cover the entire wording of the offending words. Ringtoneking feels this advertisement meets and or exceeds the current standards we defend the airing of this advertisement in its original form however can not defend people’s creativity in assuming the words that could possibly be behind the “stars” and “bleeping”.

Ringtoneking 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 about the use of bad language, albeit beeped out, in this advertisement and concern about the availability of such products.

The Board noted that the advertisement is for downloadable ring tones and that such products are able to be legally sold and advertised in Australia, provided that the advertisements for them comply with the Code. It is therefore not the role of the Board to comment on whether the product should be available in Australia.

The Board noted the concern about the use of beeped out language likely to be words such as 'fuck'. The Board noted that there is no audible mention of the word 'fuck' or of any other inappropriate language. Although the advertisement may be suggestive of inappropriate language to some people, the Board determined that the advertisement did not contain strong or obscene language and that the language used was not inappropriate for the product being advertised.

The Board noted that the phrases available for download are likely to be considered annoying and in bad taste by some people, but that this did not amount to content that is in breach of the Code.

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