



CASE REPORT

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| 1. Complaint reference number | 83/09 |
| 2. Advertiser | Jamba GmbH |
| 3. Product | Mobile phone ring tones |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Portrayal of sex/sexuality/nudity – section 2.3
Language – use of language – section 2.5 |
| 6. Date of determination | Wednesday, 11 March 2009 |
| 7. DETERMINATION | Upheld – discontinued or modified |

DESCRIPTION OF THE ADVERTISEMENT

This Jamba/Jamster television advertisement is for mobile phone ringtones. It depicts males moving in a sexually suggestive manner with the words “jizz in my pants” spoken, displayed on screen and used in lyrics of song. Viewers are asked to text 19 4000 to subscribe to Jizz3 Realtone or Jizz4 for the full length song text.

THE COMPLAINT

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

This is extremely low brow, offensive, and lewd. This type of advertisement is porn - plain and simple - its filth. There is no way known that this type of reprehensible ad should be on TV in any timeslot on any station. I am not a prude but there is a time and place for everything and this does not in my book meet decent community standards and does nothing but offend and repulse the listener. How did this pass the advertising standard with such inappropriate sexual connotation and content?.

Inappropriate sexual content.

This is a gross indecency taking the moral standards of the media to a new level of degradation never done in any time slot prior. The sexual intention of such a phone application is completely reprehensible, particularly when the target audience is frequently minors.

"Jizz" is a reference to seamen. "Seamen in your pants". This is completely inappropriate, especially considering the fact that it was also aired in prime children's after school viewing time.

The subject matter of the song is extremely offensive, particularly for the time of day when it is being advertised (children arriving from school).

THE ADVERTISER'S RESPONSE

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

We have received a few complaints regarding the Jamster ringtone commercial (1159 series) and to be more exact referring to the content within the spot selling a ringtone names “jizz in my pants”. We at Jamster have taken serious note of this complaint, and have undertaken an internal review of the complaints and through this response seek to address the issues raised.

Jamba/Jamster 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 800 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 complainants in relation to the content in which there is claimed to be “extremely offensive” using “inappropriate language” as well as being shown to children.

We would at this point like to point out that the advertisement in question is selling a ringtone which has been watched by nearly 30 million people on youtube.com. This song has no sexual nature whatsoever and the phrase “Jizz in my Pants” is compared to regular daytime movie like i.e. “American Pie” way less offensive. At no point is anything to see which shouldn't be seen by minors and Jamster in general as well as this TVC follow the strict guidelines for delivering mobile content in Australia.

Jamster takes this complaint and concerns of these nature very seriously and we remain in the belief that the advertisement in question “Jizz in my Pants” is one which has taken every possible precaution to ensure it conforms with the guidelines. However we feel claiming the TVC is offensive is something in the viewer's choice and not in our hands to correct. Through this letter we at Jamster feel as if we have addressed the main issues of concern.

Jamster intends to be a leader in social standards and as a result of this action we feel as if the issues raised by the complainants 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' concerns regarding the language and sexual references featured in the advertisement, particularly having regard to the timezone in which the advertisement aired. The Board considered the provisions of the Code relating to sex, sexuality and nudity (Section 2.3) and language (Section 2.5).

The Board viewed the advertisement and noted the ringtone featured the lyrics "jizz in my pants", which was also shown in text on the screen. The Board noted that the ringtone is from a popular song circulating on YouTube by 'The Lonely Islands'. The Board noted that the word "jizz" is understood colloquially to be a reference to semen and would be understood as that by a significant section of the community. The Board noted the convulsive movements of the characters depicted in the advertisement when those lyrics were heard and considered them to be sexually suggestive.

The Board also noted the timezones in which the advertisement screened were PG rated. The Board considered that the sexualised language and accompanying suggestive movements used in the advertisement were not appropriate to the relevant audience, which may include children, having regard to the times the advertisement screened. The Board therefore determined that the advertisement breached both Sections 2.3 and 2.5 of the Code and upheld the complaints.

ADVERTISER'S RESPONSE TO DETERMINATION

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

We at Jamster are surprised with the upholding of the complainants ultra conservative views. We also feel that these complainants are in most cases a small minority in the community however have such a loud voice it is difficult for them not to be heard. Although we feel this decision by Ad

Standards has left an indelible mark on the Australian Societies ability to enjoy humour and along with this the ability to enjoy what would be considered “poking fun” at the issue of sex, (which you will find happening in any school yard across the country). We will ensure the advertisement will be placed within an adult time slot as to ensure that the complainants are well protected from the evils of the world which they especially take such a destructive part in.