



## **CASE REPORT**

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|-------------------------------|--------------------------|
| 1. Complaint reference number | 89/09                    |
| 2. Advertiser                 | Jamba GmbH               |
| 3. Product                    | Mobile Ringtone          |
| 4. Type of advertisement      | Pay TV                   |
| 5. Nature of complaint        | Other - Social values    |
| 6. Date of determination      | Wednesday, 11 March 2009 |
| 7. DETERMINATION              | Dismissed                |

## **DESCRIPTION OF THE ADVERTISEMENT**

This Pay television advertisement from Jamba GmbH for its fart ring tone is set in an elevator with six men and one woman. There is a noise of flatulation and the people in the elevator appear embarrassed and concerned. The woman then takes a mobile phone from her pocket and answers it. The men in the elevator then start to laugh. A voiceover says: "Fool your friends and subscribe to this hilarious ringtone". Viewers are told to text "Fart6" to 194000. These details and information about the cost are shown on the screen.

## **THE COMPLAINT**

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

*Aimed at children costing upwards of \$5 a sms or message to download the above mentioned items. The frequency of these ads is disturbing and comparative to hawking.*

*It is the epitome of bad taste.*

## **THE ADVERTISER'S RESPONSE**

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

We have read through the frustrations of the complainants in relation to the content in which there is claimed to be "bad taste" and charging "upwards of \$5". We would at this point like to point out that the advertisement in question is selling a fart ringtone which is up to each individual person to decide if this is crossing the border to "bad taste" or if this is humorous. About the cost for the product, the voice over as well as the Legal Line make it perfectly clear that it is a subscription service stating the price in a very obvious way. The frequency of an advertisement shown is in direct relation to the customers' response.

At no point is anything to see which shouldn't be seen by minors or which is in violation with any authorities and guidelines. 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 "1119" is one which has taken every possible precaution to ensure it's confirm with the guidelines.

Through this letter we at Jamster feel as if we have addressed the main issues in 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' concern that the advertisement is in bad taste and inappropriate given the cost of the service.

The Board noted that it is not within the scope of the Code for the Board to consider issues about the cost of a service.

The Board considered that some members of the community would find that the advertisement was suggestive of 'farting noises' and that this would offend some people. However the Board noted that there is no depiction of any person passing wind.

The Board noted that the advertisement clearly depicts that the noise is coming from the telephone and that the intention of the advertisement is to create humour at the discomfort that the people in the lift would suffer if there was a person passing wind in the lift. The Board considered that most members of the community would find the advertisement humorous, albeit in bad taste, rather than offensive.

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