



**Ad Standards** Community Panel  
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Advertising Standards Bureau Limited  
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# Case Report

1	<b>Case Number</b>	<b>0016/18</b>
2	<b>Advertiser</b>	<b>Lotterywest WA</b>
3	<b>Product</b>	<b>Gaming</b>
4	<b>Type of Advertisement / media</b>	<b>Poster</b>
5	<b>Date of Determination</b>	<b>07/02/2018</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- 2.6 - Health and Safety Depiction of smoking/drinking/gambling
- 2.9 - Pressure to gamble Disparage abstention

## DESCRIPTION OF THE ADVERTISEMENT

The poster advertisement features the words "It's just not Christmas without Scratchies" and features Scratchies with images of Christmas decorations and gifts.

## THE COMPLAINT

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

*The association of a gambling product to what should be a festive, family occasion, and the inference that it not Christmas without their gambling product is totally inappropriate.*

## THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:



*The advertising complaint relates to a Lotterywest poster at the Innaloo Megacentre Shopping Centre on 5 December 2017 ("Poster"). The complaint raises clause 2.9 of the AANA Wagering Advertising & Marketing Communication Code and states the reason for concern as "The association of a gambling product to what should be a festive, family occasion, and the inference that it not Christmas without their gambling product is totally inappropriate."*

*For the purposes of the complaint, Lotterywest has assumed that the Poster the subject of the complaint was in a Lotterywest store at the mentioned shopping centre.*

*This is the first complaint that has been received to date from a member of the public in relation to the Poster.*

*Lotterywest advises that the Poster is no longer in market as Christmas has ended and Lotterywest stores were instructed to cease displaying the Poster from Sunday 24 December 2017. On Thursday 18 January 2018, Lotterywest sent a reminder to Lotterywest retailers to ensure the Poster is no longer on display.*

*However, Lotterywest believes that:*

- (a) the Poster upholds the requirements of section 2 of the AANA Code of Ethics;*
- and*
- (b) section 2.9 of the AANA Wagering Advertising & Marketing Communication Code does not apply to the Poster and Lotterywest.*

*Section 2 of the AANA Code of Ethics:*

*Lotterywest makes the following comments in relation to section 2 of the AANA Code of Ethics:*

*2.1 Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.*

*The Poster headline was a result of research which identified playing and gifting Scratch'n'Win tickets during Christmas has become a tradition for many of our players. Some quotes from the research are:*

*"I buy Scratchies for the family like at Easter and Christmas"*

*"I buy Scratchies for gifts and stick them in the Christmas crackers I make."*

*"Generally, I buy the Christmas themed ones at Christmas."*

*"I'd be more likely to buy a themed card (Scratchie) at Christmas or for another occasion."*

*"Two years ago at our work Christmas party we always do a Secret Santa thing where*



*everyone buys a gift and I ended up buying \$20 worth of Scratchies and my boss ended up winning \$500 off it.”*

*“Every year at Christmas when the families having the Christmas lunch we put Scratchies out and one year on a \$1 one I got \$100.”*

*“I always get them at Christmas and Birthdays. It’s always nice to receive them on special occasions.”*

*The Poster is product specific and does not depict people or a section of the community in any manner. It was created to appeal to the broad adult population of Western Australia and did not target any specific audience sub-category. Lotterywest believes that the Poster does not detract from Christmas being a festive, family occasion.*

*Lotterywest notes that in ASB Case 0554/16 which involved an advertisement involving Christmas, the Advertising Standards Board found that the advertisement did not breach clause 2.1 of the AANA Code of Ethics and stated:*

*“The Board noted the complainants’ concerns that using Christmas to promote tools, and linking this promotion with inappropriate language, is offensive to Christians. The Board noted that as well as being an important part of the Christian calendar, ‘Christmas’ has been commercialised as a holiday season and considered that the use of the word Christmas, along with the visuals of a decorated tree and a man dressed as Santa Clause, is a secular portrayal and not a portrayal which is disrespectful or discriminatory towards people with strong Christian beliefs and in conjunction with the language doesn’t amount to discrimination either.”*

*Lotterywest submits that the same reasoning should be applied to the Poster with the result that there is no breach of clause 2.1 of the AANA Code of Ethics.*

*2.2 Advertising or Marketing Communications shall not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative and degrading of any individual or group of people.*

*The Poster does not employ any sexual appeal.*

*2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.*

*The Poster does not present or portray violence.*

*2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.*

*No sex, sexuality or nudity has been portrayed within the Poster.*



*2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.*

*The language used on the Poster is representative of the Christmas product theme, which is relevant to our adult players. No strong or obscene language was used.*

*2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.*

*Lotterywest holds a World Lotteries Association (WLA) for Responsible Gaming Framework Level 2 Accreditation. In accordance with this accreditation and in alignment with prevailing community standards, the Poster carries the 'Play Responsibly' message, the contact number for the Problem Gambling Helpline and online information in an effort to ensure the health and safety of players.*

*Additionally, the Poster creative and placement were not targeted to minors and were created to appeal to the broad adult population of Western Australia.*

*2.7 Advertising or Marketing Communications shall be clearly distinguishable as such to the relevant audience.*

*The Poster featured in Lotterywest stores was displayed within promotional poster frames, amongst other Lotterywest product advertising. The Poster was clearly distinguished as advertising with both the Lotterywest logo and Scratch'n'Win product logo included, inclusion of the 'Play Responsibly' messaging and consumer call to action. These items together effectively convey the commercial nature of the content.*

*Section 2.9 of the AANA Wagering Advertising & Marketing Communication Code:*

*Lotterywest notes that section 2.9 of the AANA Wagering Advertising & Marketing Communication Code does not apply to advertising & marketing communication in relation to lotto, lottery products and trade promotions (as these items are expressly excluded from the definition of "Wagering Product or Service"). Lotterywest Scratch'n'Win tickets are an "instant lottery" and "lottery" under the Lotteries Commission Act 1990 (WA) (see sections 3(1) and 3(3)). As a result, the Poster has not breached section 2.9 of the AANA Wagering Advertising & Marketing Communication Code as that Code does not apply to the Poster or Lotterywest.*

*Nevertheless, we believe that even if section 2.9 applied to the Poster and Lotterywest, Lotterywest would not have breached section 2.9. The Poster showcases the range of Christmas-themed Scratch'n'Win products available (\$1, \$5 and \$10 price points) and does not portray, condone or encourage peer pressure to wager nor disparage*



*abstention from wagering activities. Rather the Poster headline reflects our player research indicating that our adult target audience like to purchase Scratch'n'Win tickets as gifts at Christmas.*

*Play Responsibly:*

*Lotterywest's role is to sell lottery products (to enable it to distribute grants and funds to the Western Australian community) whilst promoting responsible play. Lotterywest complies with the World Lottery Association Best Practice Marketing/Communications Guidelines ("WLA Guidelines") and Racing and Wagering Western Australia Responsible Wagering Code of Practice.*

*As per the WLA Guidelines, the Poster emphasises the fun and entertaining aspect of playing the games, suggesting people could add some fun to the festive period and purchase Scratch'n'Win as fun Christmas gifts. The Poster contains content relevant to the product and to Christmas, and includes product logos and call to action to ensure it is clearly distinguishable as advertising. Additionally, the Poster seeks to protect the health and safety of consumers by inclusion of the 'Play Responsibly' messaging, with telephone and website details clearly displayed.*

*Lotterywest is committed to helping people who may be at risk of developing a gambling problem from playing Lotterywest games. We support Centrecare, an organisation offering gambling counselling services. We are an active member of the Western Australian Problem Gambling Support Services Committee which highlights and lends support to those at risk of experiencing gambling problems through community awareness campaigns.*

*Lotterywest, in partnership with our retailers, aims to offer the highest standards of service and information to play responsibly. We have committed to a responsible gaming framework and continue to provide players with information encouraging responsible play. The in-store marketing communication material (as per all our advertising materials) carries the 'Play Responsibly' message in addition to the contact number for the Problem Gambling Helpline and online information.*

*Conclusion:*

*In summary, Lotterywest submits that:*

- (a) the Poster does not breach the requirements of section 2 of the AANA Code of Ethics; and*
- (b) section 2.9 of the AANA Wagering Advertising & Marketing Communication Code does not apply to the Poster and Lotterywest. In any event, the Poster would not breach section 2.9 of the AANA Wagering Advertising & Marketing Communication Code.*



## **THE DETERMINATION**

The Advertising Standards Board (the “Board”) considered whether this advertisement breaches the AANA Wagering Advertising and Marketing Communication Code (the “Wagering Code”).

The Board noted that the advertiser was not a wagering operator and therefore the Wagering Code did not apply.

The Advertising Standards Board (the “Board”) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that suggesting that it’s not Christmas without gambling is inappropriate.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Board noted this poster advertisement features the words “it’s just not Christmas without scratchies” with three types of Christmas themed scratchies shown.

The Board considered the advertiser’s response that their research has indicated that many people do only buy scratchies at Christmas time as gifts for family and friends.

The Board noted that as well as being an important part of the Christian calendar, ‘Christmas’ has been commercialised as a holiday season and considered that the use of the word Christmas, along with the visuals of a decorated table and Christmas trees, is a secular portrayal and not a portrayal which is disrespectful or discriminatory towards people with strong Christian beliefs and in conjunction with scratchies doesn’t amount to discrimination.

The Board considered that this was not a depiction of material in a way which discriminates against or vilifies a person or section of the community on account of religious beliefs and determined that the advertisement did not breach Section 2.1 of the Code.

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to



Prevailing Community Standards on health and safety”.

The Board noted this advertisement features the words ‘it’s just not Christmas without scratchies” and noted the complainant’s concern that the advertisement was suggesting that you had to gamble at Christmas time.

The Board considered the message of the advertisement was that people like to give and receive scratchies at Christmas time. The Board considered that this behaviour was limited to a certain time of the year, and that the advertisement was not suggesting you should gamble all the time or that you should only give scratchies as gifts at Christmas time.

The Board considered that the statement ‘it’s just not Christmas without scratchies’ was puffery, and that it would be unlikely to encourage excessive gambling.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety. The Board determined that the advertisement did not breach Section 2.6 of the Code.

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

