



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0016-22</b>
<b>2. Advertiser :</b>	<b>TexBet</b>
<b>3. Product :</b>	<b>Gambling</b>
<b>4. Type of Advertisement/Media :</b>	<b>Internet - Social - Facebook</b>
<b>5. Date of Determination</b>	<b>19-Jan-2022</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Wagering Code\2.1 Directed to Minors

### DESCRIPTION OF ADVERTISEMENT

This Facebook advertisement features a cartoon image of an advent calendar and Santa. It includes the text, "12 Days of Christmas", and "Login to see what Tex has under his tree" and the caption, "Christmas has arrived early at TexBet Login to receive your daily offer".

### THE COMPLAINT

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

*Advertising to minors. Even though there is a small 18+ tag. Its a cartoon illustration of santa opening an advent calendar with gifts. Main type is "12 days of christmas"*

### THE ADVERTISER'S RESPONSE

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

*Thank you for your letter setting out the complainant's concern regarding the TexBet advertisements.*

*TexBet values feedback from all stakeholders – positive and negative – and welcomes the complainant's comments on its advertising. On this occasion, whilst acknowledging the feedback, TexBet respectfully does not share the complainant's*



*view that the advertising breaches the AANA Wagering Code. TexBet also submits that the advertising complies with the AANA Code of Ethics.*

### *The Complaint*

*The complainant alleges that the advertising is directed at or to minors.*

*The Complainant states:*

*Even though there is a small 18+ tag, it's a cartoon illustration of santa opening an advent calendar with gifts. Main type is "12 days of Christmas".*

### *Advertisement*

*The advertisements were Facebook advertisements. The actual banners are contained in Annexure A. These were accompanied by the following copy or wording:*

- Copy: Christmas has arrived early at TexBet ???? Login to receive your daily offer!*
- Headline: Tex's 12 Days of Christmas*
- Description: Gamble Responsibly. 18+*

*The advertisements were visible on Facebook for the period 14 – 25 December 2021 (inclusive). The advertisements were removed on 26 December 2021, so they are no longer visible to anyone.*

*The advertisements were displayed on Facebook using Facebook's age-based controls which limited its display to customers who are at least 18 years of age. In other words, age-gating IT controls prevented the advertisements being visible to anyone under the age of 18.*

*The advertisements have a 12 days of Christmas theme. The advertisements contain a graphical depiction of Terry (Tex) O'Shea. Tex O'Shea is the face and brand of TexBet. Most advertising of TexBet contains a graphical representation of Tex O'Shea given he is the face and brand of TexBet. In these particular advertisements, Tex is portrayed as wearing a Santa hat and shirt, and carrying a sack – which links in with the advertisement being Christmas themed.*

### *AANA Wagering Code*

*Each provision of the AANA Wagering code is address below.*

*2.1 Advertising or Marketing Communication for a Wagering Product or Service must not, having regard to the theme, visuals and language used, be directed primarily to Minors.*

*An objective assessment of the advertisement does not result in a conclusion that the advertisement is directed primarily at minors.*



*The graphic is a picture of Tex O'Shea, a mature gentleman, who is the face and brand of TexBet. In a playful reference to the Christmas period, Tex is portrayed in Christmas attire. But on an objective assessment, this does not result in this advertisement being directed primarily at minors. A playful reference to the Christmas period appeals to adults of all ages and this ad is designed to appeal to the wagering public, not children.*

*Tex O'Shea is not a known character to children. There is nothing about the graphical representation of Tex that would be familiar or appealing to minors.*

*Furthermore, the advertisements were not physically displayed to children due to the IT controls.*

*2.2 Advertising or Marketing Communication for a Wagering Product or Service must not depict a person who is a Minor unless the person is shown in an incidental role in a natural situation and where there is no implication they will engage in wagering activities.*

*There is no depiction of a person who is a minor.*

*2.3 Advertising or Marketing Communication for a Wagering Product or Service must not depict a person aged 18-24 years old engaged in wagering activities.*

*There is no depiction of a person who is aged 18 – 24. Tex O'Shea is a mature gentleman who has been a bookmaker since 1973.*

*2.4 Advertising or Marketing Communication for a Wagering Product or Service must not portray, condone or encourage wagering in combination with the consumption of alcohol.*

*There is no reference to alcohol.*

*2.5 Advertising or Marketing Communication for a Wagering Product or Service must not state or imply a promise of winning.*

*The advertisements do not state or imply a promise of winning.*

*2.6 Advertising or Marketing Communication for a Wagering Product or Service must not portray, condone or encourage participation in wagering activities as a means of relieving a person's financial or personal difficulties.*

*The advertisements do not portray, condone or encourage participation in wagering as a means of relieving a person's financial or personal difficulties.*

*2.7 Advertising or Marketing Communication for a Wagering Product or Service must not state or imply a link between wagering and sexual success or enhanced attractiveness.*



*There is no reference to sexual success or attractiveness in the advertisements.*

*2.8 Advertising or Marketing Communication for a Wagering Product or Service must not portray, condone or encourage excessive participation in wagering activities.*

*The advertisements reference the availability of products and offers. They do not encourage excessive participation.*

*2.9 Advertising or Marketing Communication for a Wagering Product or Service must neither portray, condone or encourage peer pressure to wager nor disparage abstention from wagering activities.*

*The advertisements reference the availability of products and offers. They do not apply pressure to wager nor disparage abstention from wagering.*

*AANA Code of Ethics*

*The advertisements have been reviewed against the AANA Code of Ethics also. We submit that there is not breach of the AANA Code of Ethics.*

## **THE DETERMINATION**

The Ad Standards Community Panel (Panel) considered whether this advertisement breaches the AANA Code of Ethics (the Code) or the AANA Wagering Advertising and Marketing Communication Code (Wagering Code).

The Panel noted the complainant's concern that the advertisement is targeted towards minors.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel noted that the advertiser is a company licensed in a State or Territory of Australia to provide wagering products or services to customers in Australia and that the product advertised is a wagering product or service and therefore the provisions of the Wagering Code apply.

As per the AANA Wagering Advertising and Marketing Communication Code Practice Note:

*"The Code applies to advertising and marketing communication for wagering products and services provided by licensed operators in Australia."*

**Wagering Code Section 2.1 - Advertising or Marketing Communication for a Wagering Product or Service must not, having regard to the theme, visuals and language used, be directed primarily to Minors**



The Panel noted that the Practice Note for the Wagering Code states:

*“Whether an advertisement or marketing communication is “directed primarily to minors” is an objective test based on a range of factors. It is a combination of visual techniques and age of characters and actors which will mean the marketing communication is directed primarily to minors. The use of any one factor or technique in the absence of others may not necessarily render the marketing communication “directed primarily to minors”...*

*“An advertisement or marketing communication featuring cartoons or licensed characters, such as super heroes and celebrities, that particularly appeal to minors may breach the Code. Licensed operators should take great care when using cartoon-like images. They may be acceptable if they are adult in nature but licensed operators run the risk of breaching the Code if the cartoon images are appealing to minors.”*

The Community Panel noted that minors were defined in the Wagering Code as those under 18.

The Panel noted that the advertisement features a cartoon image of a character associated with the brand dressed as Santa and a colourful advent calendar. The Panel noted that these images would be of some appeal to children and would likely attract the attention of children through these Christmas themes.

However, the Panel considered that Christmas and gifts are themes which are attractive to people of all ages. The Panel noted that the Santa character was not a cute and cuddly character but was a character associated with the brand who would be more recognizable to an adult audience. The Panel also noted that the advertisement included complex wording and language which would not appeal to Minors.

Overall, the Panel noted that the advertisement would be attractive to children due to the use of Santa and an advent calendar, however the Panel considered that those aspects would be equally attractive to adults.

The Panel considered that while the advertisement may be somewhat appealing to minors, it is not directed primarily towards people under 18.

### **Section 2.1 conclusion**

The Panel determined that the advertisement was not directed primarily to minors and did not breach Section 2.1 of the Wagering Code.

### **Conclusion**



Finding that the advertisement did not breach any other section of the Codes administered by Ad Standards, the Panel dismissed the complaint.