



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0088/19
2	Advertiser	Tabcorp Holdings Limited
3	Product	Gaming
4	Type of Advertisement / media	Radio
5	Date of Determination	03/04/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Motor vehicle related

DESCRIPTION OF THE ADVERTISEMENT

This radio advertisement features the voiceover:

Host: It's TAB's "Who Are You Backing". The imaginary betting gameshow with imaginary betting questions. Like this. Now Dave, what are the odds you're sitting in traffic, thinking about the TAB app with Live Sky Racing Vision, which shows every race, live?

Dave: Who's Dave?

Host: It doesn't matter Dave, because this gameshow isn't a thing. But Live Sky Racing Vision is! Download it. Who are you backing? TAB.

T's and C's apply, available to account customers only. Gamble responsibly.

THE COMPLAINT

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

This promotes using phones whilst driving and also gambling which can be an





addiction for some people. This advertisement can be harmful to people on the road because it is illegal to use your phone whilst driving. Promoting gambling is not okay in the first place in my opinion, but if it is advertised it should not be in the way that it was.

THE ADVERTISER'S RESPONSE

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

We refer to your letter dated 19 March 2019 (the Letter) in relation to a complaint received by Ad Standards on 18 March 2019 in relation to a radio advertisement (the Advertisement) that aired on KIIS FM radio station (the Complaint).

We appreciate you affording us the opportunity to respond to Ad Standards' concerns with regards to the Complaint.

Description of the advertisement

The Advertisement was advertising Live SKY Racing Vision on the TAB app through an imaginary game show called "Who Are You Backing". A copy of the script can be found at Annexure A. A digital copy of the Advertisement will also be provided to Ad Standards via the online upload facility.

In summary, the game show host asks a contestant named Dave "what are the odds you're sitting in traffic, thinking about the TAB app with Live SKY Racing Vision, which shows every race, live?"

Consideration of Section 2 of the Code of Ethics

Our responses to each part of Section 2 of the AANA Advertiser Code of Ethics (the Code of Ethics) are outlined below:

- 1. Discrimination or vilification – The Advertisement does not contain any matter that could be considered discriminatory or that vilifies any members of the community.*
- 2. Exploitative or degrading – The Advertisement does not employ sexual appeal in a manner that is exploitative or degrading of any individual or group of people.*
- 3. Violence – The Advertisement does not present or portray any form of violence.*
- 4. Sex, sexuality and nudity – The Advertisement does not refer to any matters of sex or nudity.*
- 5. Language – The Advertisement does not contain any strong or obscene language and is therefore appropriate in the circumstances.*



6. Health and Safety – The Advertisement does not depict images contrary to public health and safety with regards to the use of motor vehicles.

The Advertisement begins with the host stating that this is an imaginary game show with imaginary questions. The host then proceeds to ask Dave what the odds are that he is sitting in traffic, thinking about the TAB app with Live SKY Racing Vision, which shows every race, live.

First, the Advertisement refers to “thinking” rather than “watching” Live SKY Racing Vision on the TAB app, which is not a breach of any laws regarding the use of mobile phones whilst driving. This is clearly contrary to the description of the Advertisement in the Complaint, which noted that the host said, “it would be better to be gambling and using the app rather than driving in traffic”.

Secondly, it is clear that the Advertisement features unrealistic behaviour as numerous references to an imaginary game show are made throughout.

Finally, the purpose of the Advertisement is to promote the Live SKY Racing Vision feature of the TAB app. The purpose is not to encourage drivers to think of using the TAB app, including to watch Live SKY Racing Vision, whilst they are sitting in traffic.

7. Distinguishable as advertising – The Advertisement is clearly distinguishable as advertising due to the references to the imaginary game show and the call to action for TAB at the conclusion of the Advertisement.

Consideration of Section 2 of the Wagering Code

We have reviewed Section 2 of the AANA Wagering Advertising and Marketing Communications Code (the Wagering Code) and note as follows:

1. Directed to Minors – The Advertisement was not directed primarily towards minors.

2. Depiction of Minors – The Advertisement did not depict a minor.

3. Depiction of a person aged 18-24 years – The Advertisement did not depict a person aged between 18 – 24 years old engaging in wagering activities.

4. Alcohol – The Advertisement did not portray, condone or encourage wagering in combination with the consumption of alcohol.

5. Promise of winning – The Advertisement did not state or imply a promise of winning.

6. Relief of financial or personal difficulties – The Advertisement did not portray, condone or encourage participation in wagering activities as a means of relieving a



person's financial or personal difficulties.

7. Sexual success – The Advertisement did not state or imply a link between wagering and sexual success or enhanced attractiveness.

8. Excessive participation in wagering – The Advertisement did not portray, condone or encourage excessive participation in wagering. As stated above, the Advertisement portrays an imagery game show where a contestant is asked what the odds are that he is sitting in traffic, thinking about the TAB app with Live SKY Racing Vision. No reference to watching Live SKY Racing Vision, nor gambling on the TAB app, whilst driving is depicted in the Advertisement.

9. Peer pressure to wager – The Advertisement did not portray, condone or encourage peer pressure to wager.

If required, we would welcome the opportunity to discuss this matter further with you.

Thank you again for the opportunity to comment on this matter. If you have any further questions, please do not hesitate to contact me.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement contained material which went against prevailing community standards on health and safety.

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

The Panel considered whether the advertisement was in breach of 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 Panel noted the complainant's concern that the advertisement states that it would be better to be gambling and using the app rather than driving in traffic, which promotes the use of phones while driving.

The Panel noted the advertisement features an imaginary gameshow scenario, in which the announcer states "Now Dave, what are the odds you're sitting in traffic, thinking about the TAB app with Live Sky Racing Vision, which shows every race, live?". The Panel noted the advertisement begins with the line "The imaginary betting gameshows imaginary betting questions".



The Panel noted that the advertisement refers to “Dave” thinking about the gambling application which shows races, but does not make any call to action for listeners to actually use the app while driving. The Panel noted that the statement the complainant suggested that “it would be better to be gambling and using the app rather than driving in traffic” is not made.

The Panel noted the advertiser’s response that the advertisement begins with the host stating that this is an imaginary game show with imaginary questions. The Panel noted that numerous references are made during the advertisement which state that the gameshow scenario is not real.

The Panel also considered that the advertisement did not contain any suggestion that listeners should use their phones while driving, either to use a gambling application or for any other reason and that the advertisement did not encourage unsafe driving.

The Panel considered that the advertisement did not depict material contrary to prevailing community standards on health and safety and did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.

