



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0091/18
2	Advertiser	Lottoland
3	Product	Gaming
4	Type of Advertisement / media	Internet-Social-Twtr
5	Date of Determination	07/03/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Directed to minors directed primarily to minors

DESCRIPTION OF THE ADVERTISEMENT

A post on the Manly Warringah Sea Eagles Twitter which says "Sea Eagles fans, there's less than 24 hours to bet on @lottolandAU's US Power Special Jackpot..Your change to win!

#WeAreManly

THE COMPLAINT

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

Lots of kids follow this team's account to see what their favourite players are up to, not to have lotteries / gambling thrown in their faces. Surely there are more appropriate avenues for the team to promote their sponsor products away from younger eyes. Twitter isnt an 18+ environment and to tweet it at a just after school hours time when kids are probably browsing is poor form.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this





advertisement include the following:

Lottoland refers to the ASB's letter dated 15 February 2018. The letter sets out a copy of a complaint received about a tweet by the Manly Warringah Sea Eagles (Sea Eagles). The tweet in question promotes Lottoland's business by alerting readers to a betting product provided by Lottoland (Tweet).

It is important to note that the Tweet provides a link to the Lottoland web site. The Tweet itself does not purport to offer the betting product.

It is also important to note that the Tweet was posted once, at 4.56pm on 7 February 2018. It has not been repeated.

As well, it is important to note that Lottoland is a sponsor of the Sea Eagles. That sponsorship includes stadium naming rights at Brookvale Oval and player apparel branding. The fact that Lottoland sponsors the Sea Eagles is therefore very clear and obvious, to not only members and fans of the club but also members of the public and those who watch Sea Eagles' games on television or the internet.

Lottoland has prepared this response on the basis of the material supplied in the ASB's letter. Lottoland assumes that the Board will not consider or rely on any other material, nor quote any other complaint material, in its reasons or findings.

The Case Managers have requested that Lottoland address in this response all applicable AANA advertiser codes. The reasons given for this is that the Case Managers have not viewed the Tweet in question and the Board will review the material in its entirety against section 2 of the Advertiser Code of Ethics (Code).

Lottoland notes that it is licensed in the Northern Territory to provide sports betting services to customers in Australia and the product promoted in the Tweet is a wagering product or service as defined by the Code.

Lottoland submits the following regarding the applicability of each sub-section of section 2 of the Code, referring to each of the sub-sections by number:

- 2.1 – the Tweet does 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. Nor does the complaint allege this;*
- 2.2 – the Tweet does not employ sexual appeal in a way or manner described in this sub-section, or in any way or manner whatsoever. Nor does the complaint allege that it does;*
- 2.3 – the Tweet does not present or portray violence in a way or manner described in this sub-section, or in any way or manner whatsoever. Nor does the*



complaint allege that it does;

- 2.4 – the Tweet contains no sex, sexuality or nudity as mentioned in the sub-section. Nor does the complaint allege that they do;*
- 2.5 – the Tweet uses language that is appropriate in the circumstances and contains no strong or obscene language. The complaint does not allege that it does;*
- 2.6 – the Tweet does not, in Lottoland’s view, depict material contrary to prevailing community standards (as that term is defined in the Code) on health and safety; and*
- 2.7 – the Tweet is clearly an advertising or marketing communication. The reasons for this include:*
 - o the fact that Lottoland is a sponsor of the Manly Sea Eagles;*
 - o the Tweet alerts readers to the upcoming betting event and notes that the reader has a chance to win.*

Lottoland submits that the AANA code relating to advertising and marketing of Food and Beverage has no application due to the subject matter of the Tweet.

In relation to the Code for Advertising & Marketing Communications to Children (Children Code), Lottoland submits that the Tweet is not an advertising or marketing communication “...directed primarily to children”. Having regard to the theme, visuals and language used in the Tweet, it cannot be said that it is designed to engage and resonate with children any more so than fans of the Sea Eagles who are adults. Indeed, the Tweet links to the Lottoland web site and, once at the site, the usual terms and conditions of betting with Lottoland are obvious. This includes having to go through a process of registration, which requires customer identification to be verified.

In relation to the Wagering Advertising and Marketing Communications Code (Wagering Code), Lottoland submits as follows, using the sub-section numbers set out in the Wagering Code:

- 2.1 – the Tweet is not directed primarily to minors, for the same reasons as set out above in relation to the Children Code. While the complaint refers to “younger eyes” reading the Tweet, it does not allege that the Tweet is directed to minors. Lottoland also refers to the Practice Note on the Wagering Code, specifically to the comments in section 2.1 relating to application of the term “...directed primarily to minors”. The Practice Note makes it clear that section 2.1 does not apply to marketing that “..may be seen by minors”;*
- 2.2 – the Tweet does not depict a person who is a minor. The complaint does not allege that it does;*
- 2.3 – the Tweet does not depict a person aged 18-24 years old engaged in wagering activities. The complaint does not allege that it does;*
- 2.4 – the Tweet does not portray, condone or encourage wagering in combination with the consumption of alcohol. The complaint does not allege that it does;*



- 2.5 – *the Tweet does not state or imply a promise of winning. There is no suggestion in the Tweet that winning will be a definite outcome of participating in Lottoland’s offering, or in wagering generally. The complaint does not allege that it does. Indeed, the Tweet specifically refers to the reader having a “chance to win”;*
- 2.6 – *the Tweet does not portray, condone or encourage participation in wagering activities as a means of relieving a person’s financial or personal difficulties. There is no reference to salary or debts or anything playing on a consumer’s fears of financial pressures. The Tweet does not present wagering as a viable alternative to employment. There are no expressions of any financial difficulty that winning would relieve. The complaint does not allege that the Tweet portrays, condones or encourages participation in Lottoland’s service offering as a means of relieving a person’s financial or personal difficulties;*
- 2.7 – *the Tweet does not state or imply a link between wagering and sexual success or enhanced attractiveness. The complaint does not allege that it does; and*
- 2.9 – *the Tweet does not portray, condone or encourage peer pressure to wager nor disparage abstention from wagering activities. There is nothing in the Tweet that encourages criticism or ridicule for not engaging in wagering activities, or mocks non-participants. The complaint does not allege that it does.*

In relation to sub-section 2.8 of the Wagering Code, Lottoland submits as follows:

- *the Tweet does not portray, condone or encourage excessive participation in wagering activities;*
- *there is nothing in the Tweet that depicts a participant wagering beyond their means;*
- *there is nothing in the Tweet that depicts wagering taking priority in a participant’s life;*
- *there is nothing in the Tweet that depicts prolonged and frequent wagering to improve a participant’s skill in wagering;*
- *there is nothing in the Tweet which shows individuals placing further bets, and there is no indication that further bets will lead to winning; and*
- *the complaint does not allege that the Tweet does any of these things.*

In summary, in Lottoland’s view none of the specific sub-sections of an applicable code appear to have been breached.

THE DETERMINATION

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

The Panel noted the complainant’s concern that the advertisement is directed to children.



The Panel reviewed 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..

In particular the Panel considered Section 2.1 of the Wagering Code which provides: 'Advertising or Marketing Communication for a Wagering Product or Service must not, having regard to theme, visuals and language used, be directed primarily to Minors'.

The Panel noted that Minors are defined in the Code as persons under the age of 18 years.

The Panel noted that this twitter advertisement was posted on the Manly Warringah Sea Eagles Page and featured the words, "Sea Eagles fans, there's less than 24 hours to bet on @lottolandAU's US Power Special Jackpot. Your chance to win! #We are manly". The Tweet included a picture of a large boat with a US flag and the words 'Last chance'.

The Panel noted the complainant's concern that kids would follow the team's account and that advertising gambling to a young audience would be inappropriate.

The Panel noted the advice provided in the Practice Note to Section 2.1: "Whether an advertisement or marketing communication is "directed primarily to minors" is an objective test based on a range a 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 Panel considered that the advertisement has no theme, visuals or language that would be attractive to or directed to minors and considered that the advertisement was not targeting children and was not directed primarily to minors. The Panel considered that the advertisement was clearly directed at an adult audience.

The Panel noted the advice provided in the Practice Note to Section 2.1: "This provision does not apply to advertising and marketing communication which is directly primarily to adults; nor does it apply to advertising or marketing communication that may be seen by minors, but is not directed primarily to them."



The Panel considered that while some followers of the Sea Eagles' Twitter account may be under 18, the advertisement wasn't directly primarily to them.

The Panel determined that the advertisement did not breach Section 2.1 of the Wagering Code.

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