



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0117-22
2. Advertiser :	Network Gaming Tasmania
3. Product :	Gambling
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	8-Jun-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification
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AANA Code of Ethics\2.2 Exploitative or Degrading
AANA Code of Ethics\2.4 Sex/sexuality/nudity

DESCRIPTION OF ADVERTISEMENT

This television advertisement features multiple versions of an advertisement, with two 15 second ads, a 30 second, a 60 second and a three minute version. The shorter ads are a cut-downs of the three minute version which features a woman in a local club putting music on a jukebox then walking past other people while singing along to the song playing. The woman walks past a man playing a skill tester, a bachelorette party, a person singing karaoke, two people in fluorescent tops playing pool and a man pouring a large amount of gravy on his meal. The ad also includes a snake, a spinning dartboard, a car doing a burnout and a meat raffle tray with two sausages which look like lips sing along to the music playing.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

I find this advertisement a sleazy misrepresentation of an older woman in a pub environment and unrelated to the object of the ad which is the gambling game of Keno.



The ad does not feature Keno prominently so the above statement from the advertising company is bogus. My objection to the ad is as stated, the sexualised, sleazy portrayal of a mature female woman unrelated to the product advertised. The entire ad portrays older women in a totally false setting. The advertisement only shows the word "Keno" in the very last scene on a beer coaster.

Also the portrayal of the man singing Karaoke seems very false to me. The 3 minute TV advertisement now showing on Tasmanian screens is not a true representation of a local Keno outlet and therefore also constitutes false advertising.

THE ADVERTISER'S RESPONSE

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

Advertiser response to complaint:

There are two key points included within the complaint we received:

- 1. There is a sleazy & sexualised portrayal of a mature female woman*
- 2. The scenes that unfolds within the ad are unrelated to the product being advertised (TASkeno)*

However, we argue that our advertisement can't reasonably be accused of any of these points.

Regarding point #1, the intention of this ad is to celebrate the culture of TASkeno and its players. We, therefore, developed a film with a character at its centre that is representative of TASkeno's core customer. The character's sexual appeal (or lack thereof) is subjective, and the advertisement was shot in a way that makes that character feel heroic and cool, not sexualised or sleazy.

The advertisement's intended audience is Tasmanians that visit Pubs that sell TASkeno; it is about creating an opportunity rather than solving a problem. Tasmanians like TASkeno, and the product is growing. We do not need to bring more people into pubs. We need to bring more people already in pubs, into TASkeno.

We undertook due diligence during the creative development process with our target audience through a series of 1-on-1 interviews that took place with 50 Tasmanian venue guests in three locations over 28-30 April 2021; these conversations occurred at Elwick, Risdon and Shoreline Hotels. Each interview took approximately 15 minutes, was conducted by Howatson+Co employees and data was captured via an online survey.

Two-thirds of those interviewed and observed playing TASkeno were male. Half of those interviewed (48%) were between the ages of 45-65 years old. Two-thirds visit



the pub at least three (3) times a week; 58% of our audience is aged between 35-65 years old. When we asked people what they typically like to do when they visit the pub, 78% said “play TAskeno, have a drink and catch up with friends”.

Playing TAskeno is synonymous with going to the pub; everyone interviewed had played TAskeno and were familiar with the game, 72% of respondents only think to play TAskeno while in a venue.

The Creative: Effectiveness:

70% would consider the creative to be extremely or very memorable, 78% believe the creative is extremely to very unique, 67% consider the creative to be different to existing ads.

The Creative: Likeability:

Two thirds of those interviewed liked the creative either “very much” or “somewhat”. Initial feedback influencing this score revolved around whether the central character was social. Men, in particular, found the script to be more likeable if the central character was more socially integrated into the pub vs. behaving like a star within a backdrop of the pub given “that’s not how people are around here”.

The Creative Message:

The majority - 52% - believed the creative to be liberating, fun and hopeful:

- “It communicates a good night out and that anybody can go and you’re having a nice meal and Keno is a good bonus on the side. It makes me feel good.”*
- “I think the message is be independent, have fun and enjoy yourself”*
- “This tells me you can have fun and enjoy yourself and it doesn’t matter if you win or lose. I know lots of people who don’t go out and feel stuck at home and I wish they could see the social aspect of Keno. It’s not about drinking or gambling. They would love it.”*

We determined that no flags of concern were raised during that process.

Section 2.1 of the AANA Code of Ethics (Code) prohibits the discrimination or vilification of any individual or group of people on the basis of certain defined attributes. ‘Discrimination’ is defined to mean “unfair or less favorable treatment”. ‘Vilification’ is defined as “humiliates, intimidates, incites hatred, contempt or ridicule”. The advertisement does not contain any elements of discrimination or vilification in relation to any of the defined attributes and does not convey a negative impression of a group of people in society on the basis of any of the attributes defined in section 2.1 of the Code. It therefore follows that the complaint is not substantiated with respect to section 2.1 of the Code.

Section 2.2 of the Code prohibits the use of sexual appeal in advertising which is exploitative of or degrading to any individual or group of people. ‘Exploitative’ is defined to mean “(a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities or (b) focusing on their body parts where this bears no direct relevance to the product or service being advertised”.



'Degrading' is defined to mean "lowering in character or quality a person or group of persons". The characters in the advertisement are portrayed as enjoying themselves in a manner that is appropriate for a G rated advertisement. The main female character is a fully dressed mature woman who is portrayed as confident and comfortable in her environment and is not being depicted as an object or commodity. The advertisement does not contain any overtly sexual content and does not use sexual appeal in a manner which is degrading or exploitative. It therefore follows that the complaint is not substantiated with respect to section 2.2 of the Code.

The ClearAds review of this advertisement resulted in approval with a "G" rating which demonstrates that ClearAds considered the advertisement to be very mild in impact. This provides independent evidence that the advertisement complies with sections 2.3, 2.4, 2.5 and 2.6 of the Code with respect to nudity, sex, health and safety, language and violence.

The advertisement went live on the 8th of August 2021 from the 8th of August – 2nd of July 2022

The ad has been seen:

- *Digitally:*
 - o *2,423,329 impressions - 3 min YouTube*
 - o *598,065 impressions – 15" ads YouTube*

Tarp Data chart (Please see attachment).

Tarp Definition:

- *TARP stands for Target Audience Rating Point and it refers to the proportion of an advertiser's target audience that is exposed to a campaign or program.*
- *TARPs are typically used for TV advertising that is bought against a specific demographic or audience segment.?*
- *TARPs are calculated by using the following formula:*
 - o *TARP = Average audience viewing a program / target universe estimate x 100*
 - o *'Universe estimates' estimate the total audience size. For example, in 2019, the universe estimate for Melbourne metro is 5,243,200.?*
 - o *So let's say 720,000 women aged 25-to-39 were exposed to an advertising campaign from a total universe of 4,800,000 people, then the campaign delivers a TARP of 15 since 720,000 divided by 4,800,000 equals 15.*
 - o *Reach estimate would be 35-40% of Tasmanians.*

Regarding point #2, this advertisement is entirely centered around TASkeno. For example:

- *The advertisement is set in a typical TASkeno venue*
- *The opening shots show our character scanning her TASkeno ticket*
- *She then proceeds to walk through the pub, engaging in the culture of typical TASkeno venues (meat raffles, pub meals, typical customers you'd find at a Keno venue, pool tables, karaoke, etc.)*
- *At the end of the ad she sits down to play TASkeno*



- *And finally, the advertisement features a TAskeno logo + timer in the bottom right-hand-corner throughout the entire ad, which counts down to the next TAskeno game*

In conclusion, when assessing this advertisement against the AANA Code of Ethics, it is clear that it is compliant:

- *It does not discriminate against or vilify anyone (2.1)*
- *It does not employ sexual appeal that is exploitative or degrading (2.2b) and there are no images of Minors or people who appear to be Minors (2.2a)*
- *It does not present or portray violence (2.3)*
- *It does not include sex or nudity or fail to treat sexuality with sensitivity to the relevant audience (2.4)*
- *It uses appropriate language (2.5)*
- *It does not contradict Prevailing Community Standards on Health & Safety (2.6)*
- *It is clearly an advertisement, especially considering there is a logo on screen the entire time (2.7)*

We would also like to add that at the time and date of when the advertisement was supposedly aired (between 2-4pm on the 19/05/2022 during Pointless and Tipping Point), our 3-minute (180 second) advertisement was not shown. The 3-minute advertisement has only been aired on 4 occasions as indicated in the TARPS tables above. We assume that the actual TVC viewed by the complainant was either the 30 or 15 second advertisement.

This is also the first complaint we have received in relation to its appropriateness since this creative started airing in August 2021.

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 is a sleazy misrepresentation of an older woman which is not related to the product being promoted.

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

Section 2.1: Advertising or Marketing Communication 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 Panel noted the AANA Practice Note which provides guidance on the meaning of:

- Discrimination - unfair or less favourable treatment



- Vilification - humiliates, intimidates, incites hatred, contempt or ridicule
- Gender – refer to the attributes, roles, behaviours, activities, opportunities or restrictions that society considers appropriate for girls or boys, women or men. Gender is distinct from ‘sex’, which refers to biological differences
- Age - based on a person’s actual age (i.e. from the date they were born) and not a person’s biological age (i.e. how old they may appear)

The Panel noted that the woman in the advertisement appeared in control, empowered and to be enjoying herself throughout the advertisement. The Panel considered that there was nothing in the woman’s appearance or actions which suggested that she should be thought less of. The Panel considered that the woman’s age or gender is not the focus of the advertisement nor is the subject of any commentary by any of the other characters in the advertisement.

The Panel considered that the advertisement is not showing the woman to receive unfair or less favourable treatment, nor does it humiliate, intimidate or incite hatred, contempt or ridicule of the women depicted or women in general.

Section 2.1 conclusion

Finding that the advertisement did not portray material in a way which discriminates against or vilifies a person or section of the community on account of age or gender, the Panel determined that the advertisement did not breach Section 2.1 of the Code.

Section 2.2: Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people.

The Panel noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

Exploitative - (a) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or (b) focussing on their body parts where this bears no direct relevance to the product or service being advertised.
Degrading – lowering in character or quality a person or group of people.

Does the advertisement use sexual appeal?

The Panel noted that at one point the woman taps her back pocket with her hand. The Panel also considered that in some versions of the advertisement she is seen dancing and smiling at men. The Panel considered that the advertisement may be considered to employ sexual appeal.

Does the advertisement use sexual appeal in a manner that is exploitative?



The Panel considered there was no overt focus on the woman's body or body parts but did observe the woman's shirt did reveal some of her décolletage. However, the depiction of the woman throughout the advertisement as a whole did not suggest that the woman herself is an object or commodity.

The Panel considered that the advertisement did not employ sexual appeal in a manner which is exploitative of the woman.

Does the advertisement use sexual appeal in a manner that is degrading?

The Panel considered that the woman is seen as empowered and in control, and that the advertisement does not lower her in character or quality.

The Panel considered that the advertisement did not employ sexual appeal in a manner which is degrading to the woman.

Section 2.2 conclusion

Finding that the advertisement did not employ sexual appeal in a manner which is exploitative or degrading of an individual or group of people, the Panel determined that the advertisement did not breach Section 2.2 of the Code.

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

Does the advertisement contain sex?

The Panel considered whether the advertisement contained sex. The Panel noted the definition of sex in the Practice Note is "sexual intercourse; person or persons engaged in sexually stimulating behaviour".

The Panel considered that the advertisement does not depict anyone engaging in sexual activity considered that the advertisement did not contain sex.

Does the advertisement contain sexuality?

The Panel noted the definition of sexuality in the Practice Note is "the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters".

The Panel considered that there were some sexual themes in the advertisement, including the woman patting her back pocket drawing focus to her backside, and a man winning a heart at a skill tester and raising his eyebrows.

Does the advertisement contain nudity?



The Panel noted that the definition of nudity in the Practice Note is “the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity”.

The Panel noted that all people depicted in the advertisement were dressed appropriately for public and the advertisement did not contain nudity.

Does the advertisement treat the issue of sexuality with sensitivity to the relevant audience?

The Panel noted that the definition of sensitivity in the Practice Note is “understanding and awareness to the needs and emotions of others”.

The Panel considered that the requirement to consider whether sexual suggestion is ‘sensitive to the relevant audience’ requires them to consider who the relevant audience is and to have an understanding of how they might react to or feel about the advertisement.

The Panel noted the advertisement had been given a ‘G’ rating by ClearAds and had been played at the appropriate times of this rating. The Panel considered that the relevant audience for this advertisement would be broad, and would likely include children.

The Panel considered that the level of sexuality in the advertisement was mild. The Panel considered that the tone of the overall advertisement was light-hearted and humorous. Overall, the Panel considered that the broad audience for the advertisement would not find the sexuality in the advertisement to be confronting or inappropriate.

Section 2.4 Conclusion

The Panel determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant broad audience and did not breach Section 2.4 of the Code.

Section 2.6: Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel noted the Practice Note to Section 2.6 which states:

“Images of unsafe driving, bike riding without helmets or not wearing a seatbelt while driving a motor vehicle are likely to be contrary to prevailing community standards relating to health and safety irrespective of whether such depictions are for the product/service being advertised or are incidental to the product.”



The Panel noted that some versions of the advertisement featured a car with its tyres spinning giving off pink smoke. In particular, the Panel noted the scene in the three minute version which featured a car doing a burnout in the parking lot.

The Panel noted that some driving behaviours, such as burnouts, are dangerous and if not done safely can lead to accidents. The Panel considered that in this advertisement the car is not on a public road, there is no-one around and the driving behaviour is not being cheered on or celebrated.

Further, the Panel noted that this scene appears in a series of highly fantastical images, including a bright yellow snake on the floor of the venue, the woman's reflection in the mirror dancing independently, and an anthropomorphised meat tray.

Overall, the Panel considered the combination of the highly fantastical imagery and the lack of any indication that the driving behaviour is unsafe would mean that most members of the community would not find the advertisement to be promoting unsafe driving behaviour.

Section 2.6 conclusion

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

Conclusion

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