



**Ad Standards** Community Panel  
PO Box 5110, Braddon ACT 2612  
P (02) 6173 1500 | F (02) 6262 9833

**AdStandards.com.au**

Ad Standards Limited  
ACN 084 452 666

## Case Report

<b>1. Case Number :</b>	<b>0118-20</b>
<b>2. Advertiser :</b>	<b>Sportsbet</b>
<b>3. Product :</b>	<b>Gambling</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Pay</b>
<b>5. Date of Determination</b>	<b>25-Mar-2020</b>
<b>6. DETERMINATION :</b>	<b>Upheld – Modified or Discontinued</b>

### ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification

### DESCRIPTION OF ADVERTISEMENT

This Pay TV advertisement features a scene similar to fencing at the Olympics, except the competitors are flicking towels at each other. The competitors are shown to be from China (C.H.Ting) and Australia (V.Rees). The voice over states:

JB: Sudden death now in the Towel Flick.

JB: Yesssss. The Aussie's got him a beauty.

Nick: Look at that wrist action. The bloke's nearly as whipped as Prince Harry.

JB: Another make it look easy moment, from Sportsbet.

### THE COMPLAINT

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

*The advertising featured two fencers competing.*

*One of the fencers nationality was chinese and the name was C.H. Ting. (see attached images). This is ridiculous that this is allowed on TV, when it is very clearly racial vilification of chinese people.*

*It is unlawful for a person to do an act, otherwise than in private, if:*

*(a) the act is reasonably likely in all the circumstances to offend,insult, humiliate or intimidate another person or group of people,and*



*(b) the act is done because of the race, colour or national or ethnic origin of the other person or some or all of the people in the group.*

*“More whipped than Prince Harry” was the phrase to which I took offence. I’m am concerned that belittling the choice to place family first sends a message that perpetuates a culture of toxic masculinity that promotes a culture of disrespect towards women.*

## **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 letters dated the 5th, 10th, 13th and 16th of March 2020 and the above Complaints regarding Sportsbet’s Advertisement (defined above), a digital file of which is attached.*

### *The Complaints*

*Ad Standards has identified the following sections of the AANA Code of Ethics (Code) as those which may have been breached based on the Complaints:*

*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.*

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

### *Sportsbet’s response to the Complaints*

*Sportsbet rejects that the Advertisement breaches sections 2.1, 2.6 or any other section of the Code for the reasons outlined below.*

#### *Section 2.1 of the Code: Discrimination or Vilification*

*In short, the Advertisement does not discriminate against or vilify any person or group of people on account of gender, nationality or any other basis.*

#### *Discrimination – gender*

*Sportsbet considers gender inequality and domestic violence extremely important and serious issues facing society and strongly rejects that the Advertisement in any way makes light of them.*



*Importantly, in the context of the Advertisement:*

*the ‘whipping’ reference relates to the topical and globally debated decision of Prince Harry stepping down from certain ‘royal duties’ as a result of his marriage (amongst other reasons). Being ‘whipped’ in this instance goes to the significance of what Prince Harry has sacrificed for love. Mrs Markle’s influence is a popular reason suggested for underpinning Prince Harry’s decision and a source of significant public commentary. It does not speak to Mrs Markle’s character or gender*

*being ‘whipped’ is a colloquial term used to describe a dynamic between two people who are besotted with each other (so much so that one may be influenced by the decisions of another). It is used in the scene as a playful homonym through the physical action of flicking a towel. The humour does not relate to any gender-based characteristic nor ascribe derogatory meaning to Mrs Markle in the context of the Advertisement*

*there is no commentary or other visual which is suggestive of aggressive, violent or bullying behaviour and the Advertisement does not draw any links to a domestic violence situation.*

*(b) Discrimination – nationality*

*With respect to the use of the character ‘CH Ting’:*

*the Advertisement draws on the well-recognised cases of Chinese athletes who have been found cheating on the global sporting stage. Sun Yang is a very recent and relevant example of this, see below recent media examples covering this story:*

*<https://www.theguardian.com/sport/video/2020/feb/28/olympic-swimming-champion-sun-yang-banned-for-eight-years-video-report>*

*<https://www.youtube.com/watch?v=3lAUDrS7xAA> (National Nine News report)*

*<https://www.abc.net.au/news/2020-02-28/sun-yang-banned-from-swimming-for-eight-years/12012900>*

*the light-hearted play on words is not a reference to anything culturally or racially denigrating or discriminatory – the reference to a phrase which is phonetically Chinese is as incidental to the message in the same way that Sun Yang happens to be from China.*

*The Community Panel’s views on ‘discrimination and vilification’ (\*1) are well recognised and extremely serious. Without wishing to repeat what Sportsbet has stated in previous submissions, to briefly distinguish these elements from the present case, the gravity of those categories captured under this section of the Code is set out below:*



*Discrimination: Acts with inequity, bigotry or intolerance or gives unfair, unfavourable or less favourable treatment to one person or a group because of their race, ethnicity, nationality, sex, age, sexual preference, religion, disability and/or political belief.*

*Vilification: Humiliates, intimidates, and incites hatred towards, contempt for, or ridicule of one person or a group of people because of their race, ethnicity, nationality, sex, age, sexual preference, religion, disability and/or political belief.*

*The Advertisement does not discriminate or vilify based on gender or nationality and none of the required elements of inequity, bigotry, intolerance, contempt or inciting hatred (among others) (\*2) are present in the Advertisement.*

*Section 2.6 of the Code – Prevailing Community Standards (Health & Safety)*

*Acknowledging the Community Panel's comments that section 2.6 of the Code is what 'generally applies when it considers complaints about gambling advertisements'(\*3), Sportsbet notes that:*

- nothing in the Advertisement depicts practices contrary to health and safety or unsafe behaviours. 'Towel whipping' is a light-hearted playful activity which in of itself, is innocuous and most commonly undertaken in jest between friends and/or teammates without ill intent*
- again, this is in stark contrast to any violent or aggressive behaviours that would be considered 'unsafe'. Flicking someone with a towel wholly departs from the categories contemplated in the AANA Practice Note of harmful practices or those likely to cause injury (i.e. bike-riding without a helmet or not wearing a seatbelt) (\*4)*
- we acknowledge the Panel's recognition of community values relating domestic violence (\*5) and reject that there are any connotations of domestic (or other) violence, present in the Advertisement for the reasons explained.*

*Conclusion*

*Sportsbet is acutely aware of the gender sensitivities that exist in the community and is disappointed that the Advertisement was misinterpreted by a small number of individuals who made a complaint.*

*However, for the various reasons set out in this letter, Sportsbet submits that the Advertisement does not breach the Code and the Complaints should be dismissed.*

*AANA, 'Code Crux: discrimination and vilification' at:  
<https://aana.com.au/knowledge/blog/code-crux-discrimination-vilification/> (19 June 2018)*



*Ad Standards, 'Discrimination and vilification' at <https://adstandards.com.au/issues/discrimination-and-vilification> (accessed on 15 March 2020)*

*Ad Standards, 'Gambling advertising' at: <https://adstandards.com.au/issues/gambling-advertising> (accessed on 15 March 2020)*

*AANA Code of Ethics – Practice Note (26 November 2013)*

*AANA Code of Ethics – Practice Note (26 November 2013), p.*

## **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 complainants' concerns that the advertisement:

- Racially vilifies Chinese people
- Promotes toxic masculinity and a culture of disrespect towards women

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

The Panel 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 Panel noted the Practice Note to Section 2.1 provides the following definitions:

*"Discrimination – unfair or less favourable treatment.*

*Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."*

The Panel noted the complainant's concern that the advertisement was racially vilifying to Chinese people.

The Panel noted that the advertisement features Chinese and Australian competitors versing each other in a towel flicking sport. The Panel noted that the Chinese man's name is C H Ting and that this could be read as 'cheating'. The Panel noted that it had previously considered another case for the same advertiser in which a Chinese swimmer was named 'Mee Chee Ting' in case 0276-17. In this case:

*"The Board noted that when Mee Chee Ting speaks Mandarin, a male voiceover translates and a minority of the Board considered that the voiceover is dismissive of the actual words spoken by the Mee Chee Ting which is suggestive of what she has to say being of little importance or value. A minority of the Board considered that the use of an Asian person speaking Mandarin and called Mee Chee Ting, coupled with a*



*translator who dismisses what she is saying, amounts to a negative depiction of an Asian person which invites ridicule and is humiliating for people of Asian descent. Following considerable discussion however, the majority of the Board noted that in the 1990s there was controversy surrounding the sudden winning streaks enjoyed by female Chinese swimmers, resulting in a number of Chinese swimmers testing positive for a type of steroid which was banned (<http://www.sbs.com.au/news/dateline/article/2016/08/01/look-olympic-doping-scandals-through-decades>) and considered that the advertisement is referencing this historical event rather than suggesting that all Chinese swimmers take illegal substances.*

*“The majority of the Board noted the dismissive tone of the male voiceover translating the Mandarin spoken by Mee Chee Ting but considered that this is in keeping with the overall irreverent tone of the advertisement rather than suggesting that what the woman is saying is of no interest because of her race. Overall the majority of the Board considered that the advertisement did 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.”*

In the current advertisement the Panel considered that most people watching the advertisement would not read the man’s name as ‘cheating’ because the name of the competitors is not prominent in the advertisement with the viewers eyes drawn more to the towel flicking and because there is no reference in the advertisement to the Chinese man acting unfairly or in a way which wasn’t sporting. The Panel noted that the voice over makes a reference to the man being ‘as whipped as Prince Harry’ in reference to him just being beaten in the competition, however considered that the statement was made in relation to him just being flicked with the towel, and was not referencing his race. The Panel considered that the advertisement did not humiliate, intimidate or incite hatred, contempt or ridicule of the man because of his race.

The Panel considered that the preference shown to the Australian competitor by the voice over was indicative of the preference shown to Australian competitors by Australian commentators at sporting events, and was not an indication that the man was being treated unfairly because of his race.

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race and determined that the advertisement did not breach Section 2.1 of the Code.

The Panel noted the complainants’ concerns that the phrase ‘as whipped as Prince Harry’ is misogynistic and disrespectful to women.

The Panel noted the advertiser’s response that Ms Markle’s influence is a popular reason suggested for Prince Harry’s decision to step away from royal duties, and the reference to him being ‘whipped’ is not a comment on Ms Markle’s character or gender.



The Panel considered that comparing a man losing a towel flicking competition to Prince Harry through the use of the phrase 'whipped' is a suggestion that he has lost something.

The Panel noted that the phrase 'whipped' is commonly understood to refer to a heterosexual man who is deferring to his female partner in some way, and is usually used in a manner that suggests that the woman is domineering and that the male is powerless.

The Panel noted that the phrase 'whipped' in this context is used as an abbreviation of 'pussy-whipped' which is a slang term suggesting a man is submitting to his partner's will, implicitly under the threat of the denial of sexual activities (<https://www.collinsdictionary.com/dictionary/english/pussy-whipped>).

The Panel considered that the use of the word 'whipped' in this manner implies that it is a negative matter for a woman to play an assertive role in a relationship, or for a man to defer to his female partner.

The Panel considered that the use of the phrase 'as whipped as Prince Harry' was a phrase which suggests that women are domineering and controlling.

The Panel further considered that the phrase suggests that men who defer to their partners should be ridiculed or thought less of.

The Panel considered that the reference to being 'whipped as Prince Harry' was a negative depiction of women and men and the relationship between them, and did amount to ridiculing both women and men.

The Panel considered that the advertisement did depict material in a way which discriminates against or vilifies a person or section of the community on account of gender and determined that the advertisement did breach Section 2.1 of the Code

The Panel considered whether the advertisement complied with 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 considered that the two men in the advertisement were depicted as competing in a fictional sport and that they are wearing full protective gear, including face masks. The Panel considered that the 'olympic like' scenario given to towel flicking was humorous and unrealistic. The Panel considered that while towel flicking can be painful, there was no depiction of pain being caused and overall the Panel considered that the advertisement did not depict material contrary to prevailing community standards on safety.



The Panel considered that this was not a depiction which most members of the community would consider to be contrary to Prevailing Community Standards on health and safety.

The Panel determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement breached Section 2.1 of the Code the Panel upheld the complaints.

### **THE ADVERTISER'S RESPONSE TO DETERMINATION**

Thank you for sending through confirmation that complaints against our Towel Flick TVC have been upheld.

Confirming we have taken the following action..

- Have removed the TVC from our Free-to-air & Pay TV schedules immediately
- Are in the process of creating an alternative version of this TVC that doesn't include the "he's almost as whipped as Prince Harry" dialogue.