



Case Report

1	Case Number	0140/17
2	Advertiser	Tabcorp Holdings Limited
3	Product	Gaming
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	12/04/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

2.5 - Promise of winning State or imply a promise of winning

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement depicts three different people, in different situations using the “Check and Collect” product on their TAB app on their mobile phones to scan their TAB betting tickets in order to see whether their respective bets were successful or not.

The three characters in the Advertisement are depicted as follows:

1. The first male character is seen walking through a busy up-market pub, and while he is on his way to the bathroom, scans his betting ticket using the Check and Collect feature on the TAB app on his phone. It is apparent that he placed a successful \$20 win bet;
2. The second male character is sitting in a dentist chair with a plastic splint in his mouth, and the dentist mimes to him that he will leave him alone in that position. The character proceeds to scan his betting ticket using the Check and Collect feature on the TAB app on his phone while he waits and it is apparent that he wins \$110;
3. The third female character is waiting for her husband to try on a suit. While the sales assistant is helping him with the suit, she scans her betting ticket using the Check and Collect feature on the TAB app on her phone and it is apparent that she wins \$140.

The characters are each shown becoming excited by their winnings and sharing their enthusiasm with the people around them in a manner that is designed to highlight the convenience of the “Check and Collect” product which allows customers to check their TAB

betting tickets anywhere, anytime.

THE COMPLAINT

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

Extremely Inappropriate Time Slot - It is on far TOO EARLY when minors are still watching television - it is always on during Battle Bots from approximately 7.15PM onwards. My 9 y.o son and I watch Battle Bots together and after he saw the advertisement and asked questions (and said, "Cool, look Dad you can win money!") I had to explain to him how gambling can be addictive, financially dangerous and that he should never gamble. It is also on around this time on other days.

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 regarding a complaint (reference number 0140/17) (Complaint) received by the Advertising Standards Bureau (ASB) in relation to a Tabcorp advertisement.

The Complainant described the relevant advertisement as follows:

'Various scenes depicting people excessively excited after receiving notification of big wins via their mobile, after initialing [sic] placing bets via their mobile. One scene depicted a guy in a dentist chair (mouth wide open with a clamp) going berserk with excitement.'

We understand that the complainant may be referring to Tabcorp's advertisement named "Check & Collect" with key number 'NEWTAB170029' (the Advertisement), which was broadcast on Channel 9 – GO at 7.30pm on 15 March 2017.

The complainant's reasons for concern regarding the Advertisement were:

'Extremely Inappropriate Time Slot – it is on far TOO EARLY when minors are still watching television – it is always on during Battle Bots from approximately 7.15pm onwards. My 9 y.o. son and I watch Battle Bots together and after he saw the advertisement and asked questions (and said "Cool, look dad you can win money!") I had to explain to him how gambling can be addictive, financially dangerous and that he should never gamble. It is also on around this time on other days.'

In light of the Complaint, we understand that the ASB has identified section 2.5 of the AANA Wagering Advertising & Marketing Communication Code (Wagering Code) as having potentially been breached by the Advertisement. Section 2.5 provides that 'Advertising or Marketing Communication for a Wagering Product or Service must not state or imply a promise of winning'.

Tabcorp's position is that the Advertisement does not breach the Wagering Code or the

AANA Code of Ethics and that the Complaint should accordingly be dismissed by the ASB. Our detailed response is set out below.

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement depicts three different people, in different situations using the “Check and Collect” product on their TAB app on their mobile phones to scan their TAB betting tickets in order to see whether their respective bets were successful or not. The “Check and Collect” product allows TAB customers to check their betting tickets on the TAB app on their phone and collect the winnings in their TAB Account anywhere, at any time.

The three characters in the Advertisement are depicted as follows:

1. The first male character is seen walking through a busy up-market pub, and while he is on his way to the bathroom, scans his betting ticket using the Check and Collect feature on the TAB app on his phone. It is apparent that he placed a successful \$20 win bet;

2. The second male character is sitting in a dentist chair with a plastic splint in his mouth, and the dentist mimes to him that he will leave him alone in that position. The character proceeds to scan his betting ticket using the Check and Collect feature on the TAB app on his phone while he waits and it is apparent that he wins \$110;

3. The third female character is waiting for her husband to try on a suit. While the sales assistant is helping him with the suit, she scans her betting ticket using the Check and Collect feature on the TAB app on her phone and it is apparent that she wins \$140.

The characters are each shown becoming excited by their winnings and sharing their enthusiasm with the people around them in a light-hearted, over-the-top and slapstick manner that is designed to highlight the convenience of the “Check and Collect” product which allows customers to check their TAB betting tickets anywhere, anytime.

TABCORP’S RESPONSE

Before addressing the alleged contravention of section 2.5 of the Wagering Code, Tabcorp would point out that the complainant’s primary concern was the timing of the Advertisement (i.e. Channel 9 – GO at 7.15/ 7.30pm on 15 March 2017 during ‘Battle Bots’). All Tabcorp television commercials receive a CAD rating prior to broadcast. The Advertisement has a ‘B’ (Betting/Gambling) CAD rating and is broadcast according to the Free-to-Air Placement Codes 2015. Tabcorp confirms that the timing of the broadcast of the Advertisement complied with the Placement Codes.

Tabcorp would further point out that the Advertisement first aired on free-to-air and subscription television on 19 February 2017 and has been aired on more than 1,000 separate occasions as at 15 March 2017 (and has continued to be aired on free-to-air and subscription television and YouTube since then). Despite this, the only complaint which Tabcorp is aware of in relation to the Advertisement is the complaint received by the ASB.

Wagering Code Section 2.5 – must not state or imply a promise of winning

The Practice Note to the Wagering Code provides in respect of section 2.5 that:

'Advertising or marketing communication may depict winning on a wager provided there is no direct or implied suggestion that winning will be a definite outcome of participating in wagering activities.'

Firstly, we note that the complainant does not expressly raise any concern that the Advertisement states or implies a promise of winning. The comment by the complainant's son that 'Cool, look dad you can win money' when you place a bet, is accurate and does not suggest that the complainant's son considered that the Advertisement portrayed that you will win money.

For the reasons set out below, Tabcorp disagrees with the proposition that the portrayal of the character's checking their betting tickets on the TAB app on their phones, winning and celebrating their wins, states or implies a promise of winning:

- 1. The Wagering Code does not ban gambling advertising that depicts winning on a wager provided that there is no direct or implied suggestion that winning is a definite outcome of gambling.*
- 2. The Advertisement does not depict any of the characters actively placing a bet; they are shown checking their betting tickets to see whether or not they were successful. There is no suggestion in the Advertisement that any of the characters are frequent gamblers or frequent winners or that they thought they would definitely win prior to scanning their betting ticket. In fact, the characters' levels of over-the-top excitement in the Advertisement strongly suggests that winning is an unusual outcome that the characters are very surprised and happy about.*
- 3. In all instances, the Advertisement has been broadcast in a manner which is legal in all Australian States and Territories. The Advertisement is a product advertisement and does not breach any gambling advertising legislation.*
- 4. Gambling advertising in Australia is subject to regulation which requires, amongst other things, the inclusion of responsible gambling messaging to ameliorate the potential for such advertising to result in problem gambling. The Advertisement complies with these requirements, including displaying the prescribed responsible gambling message. Further, the Advertisement complies with Tabcorp's Responsible Gambling Code of Conduct, which has been approved by the Victorian Commission of Gambling Regulation.*

Accordingly, Tabcorp submits that the Advertisement does not breach section 2.5 of the Wagering Code and the Complaint should be dismissed.

TABCORP'S RESPONSE IN RELATION TO OTHER RELEVANT PROVISIONS

Tabcorp does not consider that the Advertisement includes any material which could offend or contravene sections 2.1 to 2.6 of the Code of Ethics or sections 2.1 to 2.9 of the Wagering Code. Accordingly, Tabcorp submits that the Advertisement does not breach any relevant provision of the Code of Ethics or the Wagering Code.

OTHER RELEVANT INFORMATION

In the interests of completeness, Tabcorp notes that:

- *The Advertisement was reviewed against the requirements of, amongst other instruments, the Code of Ethics and the Wagering Code; and*
- *FreeTV Australia's Commercial Advice team approved the Advertisement prior to it being broadcast on free-to-air television.*

Tabcorp also wishes to emphasise the seriousness with which it treats its Responsible Gambling obligations and its commitment, above and beyond its regulatory obligations, to the responsible delivery of gambling products. Responsible Gambling is an important part of Tabcorp's operating philosophy and company values.

THE DETERMINATION

The Advertising Standards Board (the "Board") considered whether this advertisement breaches the AANA Wagering Advertising and Marketing Communication Code (the "Wagering Code").

The Board noted the complainant's concern that the advertisement glorifies gambling and is aired at an inappropriate time for viewing by children.

The Board reviewed the advertisement and noted the advertiser's response.

The Board 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 Product or Service relates to betting on horse races, harness races, greyhound races, or sporting events including electronic sports (competitive video gaming), as well as betting on a series of races or events. It also includes betting on an event, or a series of events, such as novelty events or other contingencies, for example royal baby names or award winners. In addition it includes betting on fantasy sport teams".

The Board considered Section 2.5 of the Wagering Code which provides: "Advertising or Marketing Communication for a Wagering Product or Service must not state or imply a promise of winning."

The Board noted the complainant's concern that the advertisement shows people excessively excited about winning and that this is the wrong message to give to children.

The Board noted that advertisement shows three different scenarios of people using the 'check and collect' app on their mobile phones.

The Board noted that the advertisement is for a wagering product and that these products are legally allowed to be advertised. The Board noted that the people in the advertisement are not seen placing their bet but are seen checking their ticket and then realising they have won.

The Board noted that the advertisement does not show any of the groups placing further bets on any events and there is no indication that further bets will lead to winning.

The Board considered that the reactions of the people were ‘over the top’ and considered that most members of the community would recognise the humorous tone and unrealistic reactions of the people.

The Board considered that the advertisement does not imply that you will definitely win if you use their product or service, or make any other claims about winning.

The Board determined that the advertisement did not breach Section 2.5 of the Wagering Code.

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