



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0149-22
2. Advertiser :	Unibet
3. Product :	Gambling
4. Type of Advertisement/Media :	Internet - Social - Other
5. Date of Determination	27-Jul-2022
6. DETERMINATION :	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Wagering Code\2.8 Excess participation
AANA Wagering Code\2.9 Pressure to gamble
AANA Code of Ethics\2.1 Discrimination or Vilification

DESCRIPTION OF ADVERTISEMENT

This advertisement depicts a man holding a sign stating: “Cashing Out is for Pussies”.

THE COMPLAINT

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

Encourages gambling without recognising limits, not in keeping with message of gambling responsibly.

THE ADVERTISER’S RESPONSE

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

We refer your letter dated 7th July 2022 (the Letter) and provide the requested information below.

Your comprehensive comments in relation to the complaint (taking into account the need to address all aspects of the advertising codes)



We refer to the Letter, in particular it was noted that, based on an initial assessment of the complaint, without having seen the Advertisement, it has been suggested that sections 2.8 and 2.9 of the AANA Wagering Code (Wagering Code) may have been breached.

Sections 2.8 and 2.9 of the Wagering Code is extracted below:

2.8 Advertising or Marketing for a Wagering Product or Service must not portray, condone or encourage excessive participation in wagering activities.

2.9 Advertising or Marketing Communications for a Wagering Product or Service must neither portray, condone or encourage peer pressure to wager nor disparage abstention from wagering activities.

The AANA Wagering Advertising Code Practice Note (the Practice Note) states that:

This Practice Note must be applied by the Ad Standards Community Panel in making its determinations.

Unibet has reviewed the guidance on sections 2.8 and 2.9 provided in the Practice Note as well as the “Must not Depict Excessive Participation: Determination Summary” and “Must Not Imply Peer Pressure: Determination Summary” available on the Ad Standards Bureau’s website (the Determination Summaries).

In light of the above, Unibet does not consider that the Advertisement in question breaches the Wagering Code.

This view is formed in particular by the nature of previous determinations and the Ad Standards Community Panel’s (Panel) stated view in the Determination Summaries, which includes the following:

- a. The Panel determined that a Facebook meme that stated, “Getting paid out early if you’re up at half-time” and “Rolling those winnings into a 10-legger over the weekend”, did not breach section 2.8 of the Wagering Code on the basis that:
 - i. there was no call to action nor encouragement to continue to use proceeds from taking winnings early to place further bets; and*
 - ii. the reference to a ‘10 legger’ or ‘multi’ is a common product feature offered by all wagering operators (PointsBet Australia – 0182-20); and**
- b. In the case Tabcorp Holdings Limited – 0173-20, the Panel took into consideration the definition of ‘excessive’ (Macquarie Australian Encyclopaedic Dictionary 2006) as being ‘beyond ordinary or proper limits’ and found that an advertisement depicting a couple painting a house, then stopping to watch a race and to resume painting again is not considered within the definition of ‘excessive’.*



In a similar note, the Advertisement merely depicts a man holding a sign. It does not portray any participation in wagering, nor does it show wagering taking over the man's life, as evident that the man is doing other activities (i.e. holding a sign outdoors in a street). As such, Unibet does not consider that the Advertisement in question breaches sections 2.8 and 2.9 of the Wagering Code. There is no call to action (i.e. bet now or place a bet etc.) nor encouragement for the public to continue to wager. The Advertisement does not make any reference to the monetary or bet count amounts, which could be considered as excessive participation in wagering or peer pressure to wager.

Regarding the wording on the sign, Unibet considers that the language used in the Advertisement was merely puffery, i.e. exaggerated marketing language that is not expected to be treated seriously or taken literally. The overall tone of the Advertisement was tongue-in-cheek and is in reference to a product feature called "Cash Out", which allows a holder of a betting account (Account Holder) to obtain a return from an eligible bet before the outcome is decided. This product feature thereby allows the Account Holder to secure payout early at a reduced win or to cut their losses and obtain their initial stake partially before an outcome is decided. As this product feature is only available once an Account Holder has placed a bet, it therefore does not imply excessive participation in wagering or peer pressure to wager. Cash out is not an uncommon product feature and is offered by most wagering operators. Moreover, the Advertisement does not make any references (whether explicitly or implicitly) that an Account Holder is required to use the proceeds of an early payout to continue to wager further.

The Advertisement is intended to:

- a. allude to this "Cash Out" product feature available on our website and apps;*
- b. allude to a pun on the words 'cashing out' and 'pussy cats'; and*
- c. dramatise the punting superstition that one does not obtain an early return or loss before an outcome is decided.*

In combination of the above, the Advertisement is intended to dramatise the abovementioned superstition through the depiction of a man holding a sign as if he were protesting, rather than an actual suggestion that a person should never withdraw funds in any circumstances. As such, the Advertisement should not be taken in any way to portray or suggest that a person should never stop wagering or to disparage abstention from wagering.

Additionally, this Advertisement is predominantly targeted at adults of 18 years old and over and considering the tongue-in-cheek tone, it is particularly not inappropriate in the context of the relevant audience and unlikely to be taken seriously or encourage excess participation or pressure to wager.

In light of above, Unibet considers that reasonable members of the community would appreciate that the Advertisement was not intended to encourage or condone excess participation in wagering, but merely utilising a light-hearted take on words that are in widespread and common use in the Australian vernacular and used with humour.



Therefore, Unibet does not believe that the overall tone of the Advertisement and its light-hearted message implies excess participation or pressure to gamble or breaches the Code.

Unibet has reviewed the AANA Code of Ethics (the Code). As requested, we address below all parts of section 2 of the Code.

2.1 Discrimination or vilification

Unibet does not consider that this section applies to the content of the Advertisement. The Advertisement does not contain any matter that could be considered discriminatory or that vilifies any members of the community.

2.2 Exploitative or degrading

Unibet does not consider that this section applies to the content of the Advertisement. The Advertisement does not employ sexual appeal in a manner that is exploitative or degrading to any individual or group of people.

2.3 Violence

Unibet does not consider that this section applies to the content of the Advertisement. The Advertisement does not present or portray any form of violence.

2.4 Sex, sexuality and nudity

Unibet does not consider that this section applies to the content of the Advertisement. The Advertisement does not refer to any matter of sex or nudity.

2.5 Language

The Advertisement is in a Reddit meme format, which is tongue-in-cheek and unlikely to be taken seriously. The user of the Reddit forum are predominantly adults and the Advertisement itself is aimed at audiences that are 18 years and over. The Reddit community is largely posts of memes, images, text and discussions that uses colloquial languages that are widespread and commonly used in the Australian vernacular. As such, considering the Reddit audience, the language used is appropriate and is a play on the word 'pussies' (also known as 'cats'). The language is also used in a manner consistent with its colloquial usage and with gentle humour. Furthermore, we refer to the guidance on section 2.5 of the Code, which states that:

"Words and phrase which are innocuous and in widespread and common use in the Australian vernacular are permitted provided they are used in a manner consistent with their colloquial usage."

As such, the overall tone of the Advertisement is tongue-in-cheek and considering the context of the Reddit audiences, the language used in the Advertisement is appropriate to the relevant audience and unlikely to be taken seriously or encourage excess participation or pressure to wager.

2.6 Health and safety



Unibet does not consider that this section applies to the content of the Advertisement. The Advertisement does not depict images contrary to the public health and safety.

In light of the above, Unibet considers that reasonable members of the community would appreciate that the Advertisement is togue-in-cheek in nature and was not intended to encourage or condone excessive wagering or pressure to wager. Therefore, Unibet does not believe that its light-hearted message breaches the Wagering Code or the Code. That said, while we believe that this Advertisement is compliant, we have removed it from Reddit as a measure of good faith given a member of the public has raised concerns.

THE DETERMINATION

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

The Panel noted the complainant's concern that the advertisement encourages gambling without recognizing limits and is against responsible gambling messaging.

The Panel viewed 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..

Wagering Code Section 2.8 - Advertising or Marketing Communication for a Wagering Product or Service must not portray, condone or encourage excessive participation in wagering activities.

The Panel considered whether the advertisement portrayed 'excessive' participation in wagering activities.

The Panel noted the Practice Note to Section 2.8 of the Wagering Code which provides:

"Simply depicting regular wagering, for example as a routine weekend pursuit during a sporting season, does not equate to portraying excessive participation. An advertisement or marketing communication would portray, condone or encourage excessive participation in wagering activities where it depicts:



- *participants wagering beyond their means;*
- *wagering taking priority in a participant's life;*
- *prolonged and frequent wagering to improve a participant's skill in wagering."*

While the Practice Note lists three examples the Panel considered that this did not restrict the application of Section 2.8, in particular noting the prohibition extends to condoning or encouraging as well as portraying excessive participation in wagering activities. The Panel considered that the depiction in the advertisement did not meet any of the examples set out in the Practice Note, so then considered whether the depiction would be considered as 'excessive' taking into consideration the definition of excessive.

The Panel noted the definition of 'excessive' (Macquarie Australian Encyclopaedic Dictionary 2006) as being 'exceeding the usual or proper limit or degree; characterized by excess.' The Panel also noted that 'Excess' includes the definition of 'going beyond ordinary or proper limits.'

The Panel noted it had previously upheld complaints about excessive participation in wagering activities in case 0447/16, 0459/17 and 0492/17 where wagering appeared to take priority in a participant's life or participants went beyond ordinary or proper limits.

In the current case, the Panel considered that the advertisement is suggesting that a person who has placed a particular kind of multi-stage or otherwise non-resolved bet which is capable of being "cash out" should not take the "cash out" option as a way of resolving the bet.

The Panel considered whether "cash out" might be interpreted as the general action a person takes when they decide to withdraw their money from a betting account and cease gambling for a period or indefinitely. On balance the Panel determined that the advertisement was not encouraging wagering participants to reinvest their winnings on further discrete bets in an excessive way. Rather, the Panel considered that the advertisement was encouraging participants to take one of two options within a bet or series of bets that had already been placed. Due to the "cash out" option requiring the participant to take a smaller return (usually calculated with reference to the chances of the bet ultimately succeeding), the Panel considered that both the decision to "cash out" or not to "cash out" carry a level of risk of loss for the participant.

The Panel considered that in this case, the concern is better considered under Section 2.9 of the Wagering Code.

Section 2.8 Conclusion

The Panel considered that the advertisement was not condoning or encouraging excessive participation and in the Panel's view the message taken from the promotion is not a portrayal or encouragement of excessive participation in wagering activities.



The Panel determined that the advertisement did not breach Section 2.8 of the Wagering Code.

Wagering Code Section 2.9 - Advertising or Marketing Communication for a Wagering Product or Service must neither portray, condone or encourage peer pressure to wager nor disparage abstention from wagering activities.

The Panel noted the practice note for Section 2.9 which states:

“Advertising or marketing communication must not portray, condone or encourage criticism or ridicule for not engaging in wagering activities or disparage abstention from wagering, for example by mocking non-participants”.

The Panel noted that the phrase “don’t be a pussy” (and variations) is not uncommon, particularly in male friend groups. The Panel noted that while the term “pussy” in this context arguably comes from the word pusillanimous, meaning to be timid or show a lack of courage, most members of the community would consider that it is a colloquial term for a woman’s genitals and is used to impugn a man’s masculinity.

The Panel considered that most members of the community would interpret a phrase such as “don’t be a pussy” to mean something like – don’t be weak, don’t be a chicken, don’t be soft, don’t be (a man who acts like) a woman. The Panel noted that whether or not this interpretation was correct, most members of the community would find the phrase to be referring to women in this way.

The Panel considered that the term “pussy” as used in this context is intended to demonstrate that cashing out or exiting a wager early is weak, cowardly, and soft – all terms used to indicate that it is undesirable.

With reference to the fact that “cashing out” would be interpreted as choosing a particular course of action within a bet that has been placed, the Panel considered that, whether or not the participant has already participated in the wagering activity, the act of “cashing out” was certainly an active act of ceasing engagement in that particular activity and potentially even the beginning of a participant abstaining from wagering activity for a period or indefinitely.

The Panel noted that Section 2.9 does not refer to excessive participation in wagering activities but rather operates such that an advertisement could breach the Section by discouraging or mocking any particular single action which would constitute abstention from wagering. The Panel considered that the Advertisement is disparaging of people who wish to exit a wagering activity, and does portray, condone or encourage criticism and ridicule for not engaging in wagering activities.

Section 2.9 Conclusion

The Panel determined that the advertisement did breach Section 2.9 of the Wagering Code.



Code of Ethics Section 2.1: 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.

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 difference.

Does the advertisement portray material in a way which discriminates against or vilifies a person on account of gender?

The Panel considered that most members of the community would interpret a phrase such as “don’t be a pussy” to mean something like – don’t be weak, don’t be a chicken, don’t be soft, don’t be (a man who acts like) a woman. The Panel noted that whether or not this interpretation was intended, most members of the community would find the phrase to be disparaging towards women by suggesting that they are weak, timid, soft or lesser than men.

The Panel considered that the advertisement does treat women unfairly and less favourably and does incite contempt and ridicule of women by promoting a negative stereotype that women are lesser than men and are soft, weak or cowardly.

Section 2.1 conclusion

The Panel considered that the advertisement did portray or 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

Conclusion

Finding that the advertisement did breach Section 2.9 of the Wagering Code and Section 2.1 of the Code of Ethics, the Panel upheld the complaint.

THE ADVERTISER’S RESPONSE TO DETERMINATION

We refer your letter dated 5th August 2022 and as requested, we confirm that the advertisement in question has been discontinued.