



Ad Standards Community Panel  
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## Case Report

1. Case Number :	0155-22
2. Advertiser :	Buddybet
3. Product :	Gambling
4. Type of Advertisement/Media :	Internet
5. Date of Determination	27-Jul-2022
6. DETERMINATION :	Dismissed

### ISSUES RAISED

AANA Code of Ethics\2.5 Language

### DESCRIPTION OF ADVERTISEMENT

This internet advertisement features an image of an older woman making a middle finger gesture with both hands, and the words "Who will Grandma Offend Next?".

### THE COMPLAINT

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

*I don't appreciate adverts swearing at me.*

### THE ADVERTISER'S RESPONSE

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

*We refer to the above complaint whereby the complainant has raised the concern "I don't appreciate adverts swearing at me". We are truly sorry that our advertisement has been interpreted in this light and it was never our intention for audience to feel as though they are being sworn at. Although no swear words were used in this advertisement, we will continue to be mindful that swear words are not used in future advertising assets. Whilst our product is a social media product, we are also answerable to the Wagering Advertising Code. Having reviewed the Wagering Advertising Code, we submit that no provisions therein have been breached. With respect to the Code of Ethics, we also submit that no provisions therein have been*



*breached. Again, Buddybet is a social media product which core concept surrounds the idea of handshake betting between friends, family and colleagues. Banter, entertainment and competition are all themes familiar to the Buddybet concept which is depicted in this advertisement. It was not our intention to offend and individual or group and we will continue mindful of this going forward.*

## **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 contains swearing.

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

**Section 2.5: Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.**

The Panel noted that the Practice Note for this section of the Code includes:

*"Words and phrases 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, for example with gentle humour, and not used in a demeaning or aggressive manner."*

The Panel noted the advertiser's response that the advertisement does not contain swear words.

The Panel noted that non-verbal communication is still a type of language, and that someone sticking their middle finger up is commonly understood to be a rude gesture.

The Panel noted that it had considered a similar complaint in case 0534-18, in which:

*"The Panel considered that although specific words are not used to express distaste for paying retail price for footwear, the advertisement contains an image that is a universally recognised gesture meaning "up yours" and in this context it is suggestive of saying "up yours" to paying retail pricing. The Panel considered that the gesture depicted is not aimed at a person or business, but rather the concept of paying a higher price for products. The Panel noted that the gesture is a small part of the advertisement and that the main focus is the text "he's been paying full retail price on asics gel-kayano nobody should pay retail – nobody". The Panel considered that the advertisement did not use strong or obscene language and the gesture was not inappropriate in the context of the product advertised and the overall context of the advertisement. The Panel determined that the advertisement did not breach Section 2.5 of the Code."*



In the current advertisement, the Panel considered that the gesture is not being made towards a particular person and is not being made in an overly aggressive manner. Rather, the Panel considered that the gesture was being made in order to demonstrate visually a general intention to cause offense.

The Panel noted that the advertisement was online and would likely have a predominantly adult audience. The Panel considered that the gesture is one which is commonly used in social situations, and is often used jokingly between friends. The Panel considered that the gesture was being used in a manner consistent with its colloquial usage in Australia.

Overall, the Panel considered that the advertisement used non-verbal language which was appropriate to the circumstances and which was not strong or obscene.

### **Section 2.5 conclusion**

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

### **Conclusion**

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