



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

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| 1. Case Number : | 0173-20 |
| 2. Advertiser : | Tabcorp Holdings Limited |
| 3. Product : | Gambling |
| 4. Type of Advertisement/Media : | TV - Free to Air |
| 5. Date of Determination | 10-Jun-2020 |
| 6. DETERMINATION : | Dismissed |

ISSUES RAISED

AANA Wagering Code\2.8 Excess participation
AANA Wagering Code\2.9 Pressure to gamble

DESCRIPTION OF ADVERTISEMENT

This television advertisement begins with a voice over saying "Some people have more important things to do than watch racing on the weekend" whilst depicting a wall being painted in a house / apartment. The Advertisement then shows a couple taking a break from painting by watching racing vision together on a smart phone. The voicover scoffs and says "Some people". It then continues to say "Catch every race this autumn with Sky live vision". The advertisement ends with the couple continuing to paint.

THE COMPLAINT

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

The advertisement tries to normalise the idea that it would be acceptable to spend an entire weekend watching and gambling on horse racing. When the ad says "some people", it uses a mocking and sarcastic tone, as if anyone who isn't watching racing has a boring life. This is a very dangerous mentality and a dangerous message to send people via a tv commercial.



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 dated 22 May 2020 in relation to the complaint received by Ad Standards on 20 May 2020 in relation to a television advertisement (the Advertisement) that aired on Channel Nine (the Complaint).

Description of the advertisement

The Advertisement is part of the "Long May We Play" campaign which aims to highlight the role that racing and sport plays in Australians' lives and their ability to bring us together.

In summary the Advertisement opens with a voice over saying "Some people have more important things to do than watch racing on the weekend" whilst depicting a wall being painted in a house / apartment.

The Advertisement then shows a couple taking a break from painting by watching racing vision together on a smart phone while the voiceover says, "some people, catch every race this autumn with Sky live vision".

Consideration of Section 2 of the Code of Ethics

Our responses to each part of Section 2 of the AANA Advertiser Code of Ethics (the Code of Ethics) are outlined below:

- 1. Discrimination or vilification – The Advertisement does not contain any matter that could be considered discriminatory or that vilifies any members of the community, including women.*
- 2. Exploitative or degrading – The Advertisement does not employ sexual appeal in a manner that is exploitative or degrading of any individual or group of people.*
- 3. Violence – The Advertisement does not present or portray any form of violence.*
- 4. Sex, sexuality and nudity – The Advertisement does not refer to any matters of sex or nudity.*
- 5. Language – The Advertisement does not contain any strong or obscene language and is therefore appropriate in the circumstances.*
- 6. Health and Safety – The Advertisement does not depict images contrary to public health and safety with regards to the use of motor vehicles.*
- 7. Distinguishable as advertising – The Advertisement is clearly distinguishable as advertising, including because the TAB and Sky brand is depicted at the conclusion of the Advertisement.*



Consideration of Section 2 of the Wagering Code

We have reviewed Section 2 of the AANA Wagering Advertising and Marketing Communications Code (the Wagering Code) and note as follows:

1. Directed to Minors – The Advertisement is not directed primarily towards minors, including with respect to the Advertisement’s themes, visuals and language. The Advertisement depicts an adult couple painting a wall and watching a race. None of these scenarios specifically relate to minors, and the manner in which these scenarios are depicted specifically appeal to minors. Additionally, our media buyer, OMD, has instructions not to purchase advertising spots for TAB during shows that are targeted to minors.

2. Depiction of Minors – The Advertisement does not depict any minors.

3. Depiction of a person aged 18-24 years – The Advertisement does not depict a person aged between 18 – 24 years old engaging in wagering activities.

4. Alcohol – The Advertisement does not portray, condone or encourage wagering in combination with the consumption of alcohol.

5. Promise of winning – The Advertisement does not state or imply a promise of winning.

6. Relief of financial or personal difficulties – The Advertisement does not portray, condone or encourage participation in wagering activities as a means of relieving a person’s financial or personal difficulties.

7. Sexual success – The Advertisement does not state or imply a link between wagering and sexual success or enhanced attractiveness.

8. Excessive participation in wagering – The Advertisement does not portray, condone or encourage excessive participation in wagering. The Advertisement depicts a couple taking a break from painting on the weekend to watch a race on a phone. It does not portray any participation in wagering, nor does it show wagering taking over the couple’s life, as evident when the couple continue with other activities (i.e. mixing more paint) after the completion of the race.

9. Peer pressure to wager – The Advertisement does not portray, condone or encourage peer pressure to wager.

The Complaint alleges the Advertisement pressures people to wager by normalising excessive wagering and mocking those who abstain from wagering. This is not the intent or the effect of this Advertisement.

As stated above, the Advertisement does not depict or make any reference to participation in gambling. The Advertisement merely shows a couple taking a break from painting to watch a race on a phone. Many racing industry participants have an



interest in horse racing without wagering on racing – farriers, stablehands, veterinarians, trainers, trackwork jockeys, stud hands, equine salespersons. The use of the phrase “some people” differentiates the couple from those who are not interested in watching racing as a leisure activity. It does not suggest people who do not watch racing are less interesting or worthwhile than those who do.

We take this opportunity to clarify that the final black screen frame of “Gamble Responsibly” is not a call to action, but a requirement under South Australian law to include a warning message.

THE DETERMINATION

The Ad Standards Community Panel (“Panel”) considered whether this advertisement breaches the AANA Wagering Advertising and Marketing Communication Code (Wagering Code).

The Panel noted the complainant’s concern that the advertisement suggests that it is normal and acceptable to spend an entire weekend watching and gambling on horse racing, and disparages people who do not do this.

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.”

In particular the Panel considered Section 2.8 of the Wagering Code which provides: “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."*

Whilst the Practice Note lists three examples the Panel considered that this did not restrict the application of Section 2.8. 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 Encyclopedic 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 contrast, in the current case, the Panel considered that overall the advertisement is depicting a couple who are painting their house, and stop to watch a race on their phone. They then continue painting once the race has concluded. The Panel considered that the couple are not shown to be gambling. The Panel considered that the advertisement does not suggest that viewers should bet outside of their means, or bet consistently throughout the day.

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 of or encouragement for, excessive participation in wagering activities.

The Panel determined that the actions of the man are not a depiction that breaches Section 2.8 of the Wagering Code.

The Panel then considered Section 2.9 of the Wagering Code which provides: '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 complainant's concern that the phrase "some people" is said in a tone which mocking and sarcastic and suggests that anyone that doesn't watch racing has a boring life.

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 the advertiser's response that the phrase "some people" differentiates the couple depicted from those who are not interested in watching racing as a leisure activity. The Panel considered that the tone of the voiceover is self deprecating rather than mocking, and is similar in tone to any person with a hobby who doesn't understand why others would not be as interested.

The Panel considered that the overall impression of the advertisement is self deprecating humour about individuals who watch horse racing, and does not contain any language or messaging which portrays, condones or encourages criticism or ridicule for a person who does not engage in wagering activities. The Panel determined that the advertisement did not breach Section 2.9 of the Wagering Code.

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