



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0202-22</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>14-Sep-2022</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

### DESCRIPTION OF ADVERTISEMENT

This Pay TV advertisement features a group of people climbing stairs to board a plane. A woman runs across the tarmac and yells, "Wait!" A man looks over the railing. The woman says, "I love...this popular same game multi" and holds up her phone.

### THE COMPLAINT

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

*Both main characters in the ad (the woman and the man she chases) use their mobile phones on the tarmac, airside at the airport. Most airports and airlines in Australia prohibit use of mobile phones on the tarmac for safety reasons.*

### THE ADVERTISER'S RESPONSE

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

*Sportsbet strongly rejects any suggestion that the Advertisement breaches section 2.6 of the Code (or any other section or codes referred to in the Complaint) for the reasons explained below. As always, Sportsbet takes its obligations under the Code very seriously and is committed to ongoing compliance.*

*What does the Code prohibit?*



*Section 2.6 of the Code prohibits advertising that “depicts content that would encourage or condone unhealthy or unsafe behaviour having regard to Prevailing Community Standards”.*

*According to the AANA’s Practice Note in respect of the Code (Practice Note), Prevailing Community Standards are determined primarily by the Ad Standards Community Panel (Panel) on a case-by-case basis as part of the complaints process. They may be influenced in part by previous decisions of the Panel. Relevantly, the Practice Note also provides that “advertisements which feature exaggerated or fantastical elements, which are unlikely to be seen as realistic by the relevant audience, are unlikely to be found to be encouraging or condoning unsafe behaviour”.*

*The Advertisement does not breach section 2.6 of the Code Sportsbet submits that the Advertisement does not depict content that would encourage or condone unhealthy or unsafe behaviour having regard to Prevailing Community Standards. That is because:*

- the behaviour depicted in the Advertisement is not, in fact, unsafe (having regard to Prevailing Community Standards or otherwise); and*
- even if the characters’ behaviour could arguably be described as unsafe (which Sportsbet disputes), the exaggerated, humorous and fantastical nature of the Advertisement makes it clear that the Advertisement is not encouraging or condoning any form of unsafe behaviour.*

*These submissions are explained further in the following section of this letter.*

*What behaviour does the Advertisement actually depict?*

*The Advertisement begins with a woman getting out of a taxi at a small fictional airport holding her smartphone. The airport is busy and the woman moves swiftly through other travellers holding her smartphone. The scene has an air of unreality. The viewer is then introduced to a dejected man (who the audience is intended to recognise as the woman’s lover) as he makes his way through an airport gate. The Advertisement then cuts back to the woman who looks through the crowded airport, frantically trying to find the man’s boarding gate. The words “sportsjet Flight SB 50A FINAL CALL” appear on a television screen at the gate. The branding for the obviously fictional “sportsjet” airline features Sportsbet’s iconic blue logo, and font and design. The woman is allowed through the gate onto the tarmac. She can only gain access to the tarmac because, as is now customary, the flight attendant scans a digital copy of the woman’s boarding pass which is stored on the woman’s smartphone.*

*The man is then shown beginning to enter the plane via the rear stairs. The woman is seen running comically and in an exaggerated manner beside passengers who are boarding the plane and waving to the man to try to attract his attention. As she runs, she continues to hold (but not use) her smartphone. Again, it is now customary for travellers to carry (but not use) their smartphone as they make their way across the tarmac. That is because, having just used their smartphone to scan their digital boarding pass, they know that they will shortly need to show that digital boarding pass to the flight attendants at the entrance to the plane. The woman then yells: “WAIT” and the Advertisement cuts to the man who looks eagerly at her, as if he is*



*expecting her to profess her love for him. The woman yells: "I NEED YOU TO KNOW...". The drama builds and the woman continues: "I LOVE...". The dramatic music continues and rises to a crescendo. She continues enthusiastically, holding her smartphone: "...THIS POPULAR SAME GAME MULTI". She then holds her smartphone while the voiceover describes the product. In the final seconds of the Advertisement, the man is shown holding his smartphone and grinning, as if he is acknowledging her advice, gratefully. The voice over then says: "Get on board with Sportsbet". Save for the woman scanning her electronic boarding pass, the Advertisement does not depict the woman or the man performing any function with their smartphone. They are not shown (for example) to be making a call, sending a message or placing a bet. At most, it could only be said that the woman and the man look at their smartphones without using them.*

*Further, the scenes portrayed in the Advertisement have a fantastical air and feature numerous exaggerated and comedic elements. Even if the characters' behaviour could arguably be described as unsafe (which Sportsbet disputes), the exaggerated, humorous and fantastical nature of the Advertisement makes it clear that the Advertisement is not encouraging or condoning any form of unsafe behaviour. This conclusion is reinforced further once previous determinations under the Code are considered.*

*Relevant previous determinations under section 2.6 of the Code Sportsbet draws the Panel's attention to several examples of advertisements found not to breach section 2.6 of the Code. Each advertisement contains depictions of behaviour that was at least arguably unsafe in the context of an advertisement that contains humorous, exaggerated and/or fantastical elements. Further, the Panel also specifically noted in several of the determinations that the scenes did not encourage or condone the impugned behaviour.*

#### *Allianz hose spray case*

*In Case Number 0014/16 [1], the Panel considered whether an advertisement for Allianz Insurance breached section 2.6 of the Code. The advertisement depicted a man examining his hose because water was not coming out. The man is then being sprayed in the face after his son straightens a kink that was blocking the water flow. The rest of the advertisement features resulting events including a van colliding with a car. In considering whether the advertisement depicted material contrary to prevailing community standards on health and safety, the Panel "noted the overall theme of the advertisement and considered that the scenes are all fantastical and intended to represent unlikely, although not impossible, situations..." The Panel also considered that the scene did not "...encourage or condone members of the community to spray a hose in their or anyone else's face"*

#### *Aldi trolley dance case*

*In Case Number 0239/17, [2] the Panel considered an advertisement for Aldi featuring a woman dancing with a trolley in a trance like state. The majority of the Panel "...considered that the exaggerated nature of the advertisement and the overall look and tone was clearly one of fantasy and was not considered to be realistic in any way".*



*While the Panel acknowledged safety concerns about riding on trolleys in its decision, it determined that the advertisement was highly stylised and not encouraging or condoning this behaviour and as a result did not breach community standards. Nestle skim board in shallow water case*

*In Case Number 0318-20, [3] the Panel considered a complaint about a Nestle advertisement featuring a man running towards the water with a skim board. He is then shown tripping and landing on the board in the water and then front flipping off the board, after which he lands in waist deep water. The Panel determined that the advertisement's "humorous and exaggerated scenario was not a depiction that would be contrary to the prevailing community standards on health and safety". Other supporting determinations For further determinations reaching a similar conclusion to those referred to above, see Case Number 0006- 21 (Carlton zero alcohol beer case) [4] and Case Number 0286-21 (Polyflor gas barbeque case). [5]*

*Like the cases referred to above, even if the Advertisement could be said to depict "use" of a mobile phone on an airport tarmac (which Sportsbet disputes), the Advertisement cannot reasonably be said to condone or encourage any form of unsafe behaviour. It is a clearly fictional advertisement featuring an exaggerated and humorous scenario. Finally, Sportsbet has a long tradition of humorous and irreverent advertising, and its advertising style is widely known by Australian consumers. The Advertisement continues this style and is in no way intended to (and does not) depict or condone unsafe behaviour.*

*Previous determination concerning mobile phone usage For completeness, Sportsbet acknowledges Case Number 0088-22 [6] where the Panel upheld a complaint under section 2.6 of the Code about an advertisement depicting mobile phone use. However, in that case a man was encouraged to actively use his mobile phone to scan a QR code while standing outside his vehicle at a petrol station and in the vicinity of petrol pumps. Sportsbet's Advertisement is obviously depicted in a very different setting and depicts very different behaviour. Further, the reasoning in that case has no application to the Advertisement because the Panel was not asked to consider any exaggerated, humorous or fantastical aspect of the relevant advertisement.*

*Conclusion*

*For the reasons outlined above, Sportsbet strongly rejects any assertion that the Advertisement breaches section 2.6 or any other section of the Code and respectfully submits that the Panel should dismiss the Complaint.*

*[1] <https://adstandards.com.au/sites/default/files/reports/0014-16.pdf>*

*[2] <https://adstandards.com.au/sites/default/files/reports/0239-17.pdf>*

*[3] <https://adstandards.com.au/sites/default/files/reports/0318-20.pdf>*

*[4] [https://adstandards.com.au/sites/default/files/reports/0006-21\\_1.pdf](https://adstandards.com.au/sites/default/files/reports/0006-21_1.pdf)*

*[5] <https://adstandards.com.au/sites/default/files/reports/0286-21.pdf>*

*[6] <https://adstandards.com.au/sites/default/files/reports/0088-22.pdf>*



## THE DETERMINATION

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

The Panel noted the complainant's concern that the advertisement promoted unsafe behaviour.

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

### **Section 2.6: Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.**

The Panel noted the Practice Note to the Code which states:

*"Advertisers should take care not to depict behaviour that children may imitate. For example, advertisements which are likely to attract the attention of children or could indicate to children that appliances or other domestic/commercial equipment are a safe place to hide, are seen to encourage unsafe behaviour."*

The Panel noted that both the man and the woman are seen holding and looking at their mobile phones on the tarmac, even if not using them.

The Panel note that the Civil Aviation Safety Authority advises that different airports and airlines have different restrictions on using mobile phones on the tarmac, and that crews' directions should be followed (<https://www.casa.gov.au/operations-safety-and-travel/travel-and-passengers/onboard-safety-and-behaviour/using-your-electronic-devices-flights#>)

The Panel considered that there were no directions given by crew or signage in the advertisement that mobile phones should not be used on the tarmac at this airport. Further, the Panel noted that the advertisement featured a fake airline (Sports Jet) and the tone of the advertisement was humorous and unrealistic.

Overall, the Panel considered that the advertisement did not condone or encourage unsafe behaviour.

### **Section 2.6 conclusion**

The Panel considered that the advertisement did not contain material contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

### **Conclusion**

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