



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0222-20
2. Advertiser :	Lotterywest
3. Product :	Gambling
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	22-Jul-2020
6. DETERMINATION :	Upheld - Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This television advertisement depicts a man at a sink about the wash his hands when he hears yelling from a cubicle. A man comes out of the cubicle holding toilet paper and yelling and hugs the first man.

The voiceover states "There's Frank. Little does he know he's about to be hugged by a stranger in the toilet. There he is, enter stranger. He's won Oz Lotto. Forget the elbow taps, he's gone all in. Oz Lotto. Tuesday."

THE COMPLAINT

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

Never mind this man did not wash his hands..AND....the voice over laughed at the covid safe distancing ..as if ..if you win the lotto all rules go out the windowand what men scream out of a,toilet and embrace a stranger...this should be taken off air...I'm disgusted ..on a few levels

THE ADVERTISER'S RESPONSE

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



The advertisement in question OZ Lotto “Updated” Public Toilet (CAD number G8AOJLGA) went to air on Sunday 5 July 2020 until Tuesday 7 July 2020. As soon as we became aware that this may be in breach of Section 2 of the AANA Code of Ethics, the ad was removed. This version of the television commercial will not be aired again.

The “Original” version of this ad (CAD reference G7PL2LGA) was produced in November 2019. The last time this version aired was for a \$20M OZ Lotto jackpot on Wednesday 18 December 2019 until Monday 23 December 2019. There were no complaints received at the time.

Once social distancing measures are no longer required in Western Australia, we will air the “Original” version of the advertisement.

This ad is one of seven within the OZ Lotto brand suite. This suite celebrates ‘winning moments’ with a variety of unique situations where the characters discover they’ve won OZ Lotto. The ads use humour to bring these winning moments to life, by exploring the many possible reactions to finding out you’re a millionaire. The ad is intended to make light of these moments in an entertaining way, and not intended to encourage poor hygiene, discount the seriousness of COVID-19, or the importance of social distancing.

The OZ Lotto “Original” Public Toilet ad is not in breach of any of the AANA Code of Ethics under Section 2.

- *It does not portray people or depict material which discriminates or vilifies based on any of the sections of the community detailed in section 2.1 of the AANA Code of Ethics.*
- *It does not employ sexual appeal of minors or anyone in a way that is exploitative or degrading.*
- *It does not portray violence in any way.*
- *It does not breach sensitivity in the treatment of sex, sexuality or nudity.*
- *It does not use inappropriate language.*
- *The OZ Lotto “Updated” Public Toilet ad depicts material which is contrary to current community standards of health and safety because of social distancing during the COVID-19 pandemic and has therefore been removed from TV. We will only air the “Original” version of the ad once social distancing measures are no longer in place and the health situation in WA is under control.*
- *The ad is clearly distinguishable as advertising.*

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 depicted a man not washing his hands after exiting a toilet cubical and the voice over to the advertisement mocked COVID safe distancing.

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

The Panel considered whether the advertisement was in breach of Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Panel noted the advertiser's response that this updated COVID-19 version of the advertisement had been removed from air, however the original advertisement which depicted the same vision but with a different voice over may be used again once social distancing measures are no longer in place.

The Panel noted that its role is to consider the advertisement which is the subject of complaints, not amended or potential advertisements. As such, the Panel considered the version of the advertisement which featured the voice over stating, "There's Frank. Little does he know he's about to be hugged by a stranger in the toilet. There he is, enter stranger. He's won Oz Lotto. Forget the elbow taps he's gone all in".

The Panel considered that there are currently a number of health and safety recommendations in place to help stop the spread of COVID-19. The Panel considered that recommendations from the WA Government include:

- Keep 1.5 metres away from others.
- Don't make unnecessary physical contact with others. Avoid physical greetings, such as handshakes, hugs and kisses.
- Wash your hands regularly for at least 20 seconds with soap and water or an alcohol-based sanitiser. (<https://www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/covid-19-coronavirus-what-you-can-and-cant-do>)

The Panel considered that the advertisement is set in a public bathroom and that there is no indication the two men know each other. The Panel noted that the voice-over identifies the men as strangers. The Panel noted that the man is shown to exit the bathroom stall, not wash his hands and then to hug the other man. The Panel considered that the actions of not washing his hands and physical contact with a stranger are actions which are against current health recommendations.

The Panel considered that Government health recommendations would be considered to be in line with community standards on health and safety during the current pandemic.

The Panel noted that the vision in this advertisement had been used before the COVID-19 pandemic. The Panel considered that it is reasonable for advertisers to continue to use old advertising material to promote their businesses especially in a time when the production of new advertisements is difficult. The Panel considered



that advertisements which are not clearly set during the pandemic, which show people interacting in a manner which indicates that they know each other, and which do not contain a call-to-action which is against current health recommendation would be unlikely to be seen by most members of the community to be against prevailing community standards on health and safety.

However, in the current advertisement the Panel considered that the voice over in the advertisement clearly identifies the men as strangers and includes the words, “forget the elbow taps”. The Panel considered that this is a direct reference to current health recommendations and a portrayal of behaviour which would be against these recommendations.

The Panel considered that the advertisement featured a man not washing his hands after exiting a toilet cubical, then hugging a stranger which in combination with a voice over indicating that existing health recommendations should be ignored in some situations, was a portrayal which would be against prevailing community standards on health and safety.

The Panel considered that portraying material which references current health advice and explicitly shows behaviour against that public health advice is contrary to Prevailing Community Standards on health and safety and determined that the advertisement did breach Section 2.6 of the Code.

Finding that the advertisement did breach Section 2.6 of the Code, the Panel upheld the complaint.

THE ADVERTISER’S RESPONSE TO DETERMINATION

Confirming that the ad in question has been discontinued.