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Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0231-21</b>
<b>2. Advertiser :</b>	<b>NSW Office of Responsible Gambling</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>25-Aug-2021</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification  
AANA Code of Ethics\2.4 Sex/sexuality/nudity

### DESCRIPTION OF ADVERTISEMENT

This Pay TV advertisement is animated in an older 50's style and features a voiceover and various scenes:

Voiceover: Show some Betiquette. A guide to betting with good old-fashioned etiquette.

Vision: A person removing a betting slip from a machine and tipping his hat.

Voiceover: Just like paying attention to a lady, a betting man should always show some Betiquette.

Vision: A man and woman having dinner, with the man on his phone and the woman with her arms folded. She kicks the man and he drops his phone.

Voiceover: Like never being intimidated by the size of his mates' bet

Vision: Two men sitting next to each other, one looking towards the others lap. Their betting slips are shown with one being longer than the other.

Voiceover: Knowing when a bet is too good to be true -what the filly

Vision: A silhouette is shown, the lights come on and it is a horse in a dress.



Voiceover: And above all, never waking up hung over next to some random betting slips. Oops a daisy.

Vision: A man wakes up in bed surrounded by betting slips, then is seen crawling out a window in a towel.

Voiceover: Remember, a man with Betiquette controls the bet. The bet never controls the man with Betiquette. A NSW Government initiative.

Vision: A garden gnome speaks, and a man tips his hat.

### **THE COMPLAINT**

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

*The ad shows sexual innuendo with men comparing the length of their betting slips as if they were penises. They depict a woman with a horse's head in a derogatory way. I object to the overt sexism in the ad in the way that women are depicted and also that this non-gendered product advertisement only considers men. It depicts a half-naked man waking up next to random betting slips and then climbing out a window. I object to the overt sexual overtones and sexism of this ad that is repetitively shown through all NRL games that families including children watch. The sexist content in an ad paid for by taxpayers is offensive. That fact that this adults only ad is shown during family viewing timeslots is also wrong.*

### **THE ADVERTISER'S RESPONSE**

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

#### *About gambling harm*

*Gambling is a source of harm for many people in the community. The NSW Gambling Survey 2019 found that just over 10% of the NSW population experience or are at risk of gambling problems. The survey found that although fewer people are gambling overall, those who do gamble are increasingly likely to experience gambling issues. In NSW, there are an estimated 556,000 people experiencing or at risk of gambling problems. The effects of gambling harm extend beyond the person who gambles to their families and broader community. For every person with a gambling problem, six others are affected, demonstrating that gambling harm impacts on a significant proportion of the community.*

*Gambling harm can have serious impacts on people who gamble, their families, and their communities, and is increasingly recognised as a public health issue. Gambling harm can have both immediate and long-term negative impacts. In addition to financial harm, other harms include impacts on physical and mental health, relationship problems, and issues with work and study.*



*Addressing gambling harm is a serious challenge that needs to be addressed through a holistic public health approach, which seeks to not only provide support to people experiencing gambling problems, but also to prevent people, especially young people, from ever experiencing gambling harm. Awareness campaigns like Betiquette are an important part of this approach.*

#### *About the Office of Responsible Gambling*

*The Office of Responsible Gambling is part of the NSW Department of Customer Service. Our vision is NSW working towards zero gambling harm. Our purpose is to:*

- prevent and reduce gambling harm, for people at risk and the broader community*
- improve individual and community wellbeing, for those affected by gambling harm*
- support people to make informed choices about gambling*
- contribute to public debate and influence gambling harm prevention and minimisation by government, industry, community, and other stakeholders.*

*The Office develops awareness campaigns like Betiquette to educate and empower individuals and the community so that they can make informed choices and take action to prevent and reduce gambling harm.*

*The Office works within a harm minimisation framework that recognises gambling is a lawful activity but that safeguards are needed to protect individuals and the community from gambling harm.*

#### *About the Betiquette campaign*

*Sports betting is embedded in the lives of young Australian men. It's a regular feature in their leisure and social lives and is highly normalised.*

*Betiquette is a highly targeted advertising strategy focusing on young men to address the normalisation of online sports betting and risk for this cohort to become problem gamblers.*

*The campaign was first launched in 2017 with subsequent phases in market in 2018, 2020 and 2021. Paid advertising runs on free to air television, Foxtel and streaming services aligned with key sporting events.*

*The digital version of the advertisement that is the subject of the complaint (as aired on Foxtel) differs slightly from the free to air version which was adapted in recognition of the less targeted nature of free to air advertising. It has now been replaced by the free to air version in response to this complaint and process.*

*Taking a public health prevention approach, it aims to prevent young men from experiencing gambling harm by encouraging responsible gambling behaviour.*

#### *Why do we need this campaign?*

*The need for this campaign is significant and increasing. Although participation in gambling is declining overall, sports betting is growing significantly. The NSW*



*Gambling Study 2019 found that 1 in 20 adults bet on sports, and online sports betting had doubled since 2011.*

*People who regularly bet on sports, especially young men, are more likely to develop problems with gambling than people who gamble in other ways. Race and sports betting are riskier than activities like buying lottery tickets or scratchies. Studies in 2015 found that 41% of all regular race bettors and 41% of all regular sports bettors experienced one or more gambling related problems.*

*For young men, sports betting is a regular feature in their leisure and social lives and is highly normalised. In 2018-19 just under \$1.2 billion was spent on sports and race betting in NSW. According to NSW Treasury data, the amount spent on betting in NSW is increasing, despite the impacts of Covid-19.*

*Currently, wagering operators dominate advertising, promotion and contextual conversation on the issue, resulting in the normalisation of sports betting and desensitisation to its consequences. In 2020, wagering operators spent \$271.3 million on advertising in Australia. This excludes social media, sponsorships and in-program content, such as during live sport broadcasts. The target audience is saturated with messages and promotional offers which is leading to risky gambling behaviour.*

*Exposure to wagering advertising and promotions has been associated with betting on impulse, higher expenditure than intended, and placing riskier bets. There is a risk for sports bettors to become problem gamblers if they undertake risky gambling behaviour.*

*While sports betting advertisements currently include a mandated 'gamble responsibly' message, these are easily missed due to their typical lack of prominence.*

*Betiquette provides the NSW Government with an effective means of countering heavy advertising by wagering operators. Without Betiquette in the marketplace to challenge the influence of wagering advertising, the trajectory of normalisation, risk and impact will only continue, and harm associated with sports betting will continue to increase.*

*What does the campaign aim to do?*

*The primary objective of the campaign is to empower male sports bettors to remain in control of their behaviours and impulses when betting and encourages responsible decision making when betting online.*

*Betiquette asks the audience to use some good old fashion etiquette when betting. It uses real and relatable situations where using Betiquette could save someone from an awkward outcome and experiencing gambling harm. It's all about staying in control when betting.*

*Through the creative, the messages the ad delivers are:*

- *Knowing when to stop gambling*



- *Not being distracted or influenced by promotional offers*
- *Not gambling under the influence of alcohol*
- *Gambling within your financial means*
- *Not submitting to peer pressure*
- *Planning bets.*

*Betiquette advertising acts as an interrupter to risky gambling behaviour. Ad delivery is focused on sporting environments where the target audience is most likely to be at risk of losing control of their betting, putting themselves at risk of gambling harm.*

*It aims to create long term behavioural change by making responsible gambling more socially acceptable (using etiquette) than the normalised risky gambling behaviours wagering advertising encourages the audience to have.*

*Who does the campaign target?*

*The campaign is targeted at sports bettors, specifically men aged 18-54 participating in online sports betting as they represent the majority of people who bet on sports and are at the greatest risk of harm from sports betting. Research shows that 70% of men who bet on sports were found to be at risk of, or already experiencing gambling harm.\**

*Overall, sports bettors are predominately male (88%) with a higher-than-average income, commonly aged 18-49 and live in inner-regional areas or major cities. Young men, who are single, educated and employed full time are more at risk of experiencing harm from sports betting. This demographic is the target of significant and sophisticated marketing by wagering operators. In 2018-19, almost \$172 million was spent on sports betting in NSW alone.*

*This target audience is notoriously difficult to engage. Young men in particular are resistant to authoritarian messaging, and people who gamble often do not recognise their own risky and problematic behaviour. In our research, regardless of their Problem Gambling Severity Index score (an internationally recognised clinical diagnostic tool and assigned based on a series of questions related to experiences of gambling harm), no respondent admitted that they may have a problem. Rather, they gave examples of 'occasional' slip ups –typically driven by drinking or chasing losses, reflections of going too far when they were 'young and inexperienced' or stating their mates that may have a problem with betting.*

*The difficulty of engaging this target audience is the reason why the campaign needs to use humourous relatable scenarios and a memorable approach and delivery to effectively demonstrate the risks of betting and teach young men how to make safer decisions and avoid gambling harm.*

*Audience targeting*

*The campaign advertising aims to act as an interrupter to risky gambling behaviour where sports bettors are most likely to be, for example, making impulse bets, betting while drunk or chasing their losses. Delivering ads during this time is crucial to the*



*success of the campaign. There are few opportunities to advertise to a highly skewed male audience for any brand or campaign.*

*Advertising is placed during sporting events such as the NRL and other football codes where men constitute the majority of the audience. Across all media channels, sports attracts, on average, a 70% male viewership – higher than any other programming opportunity and represents the environment where risky gambling behaviour takes place. This is the optimal environment to most effectively target the audience at a time where behavioural change is most needed.*

*However, viewing across sport is not exclusively male which exposes a small unintended audience to the advertisement, across free-to-air and some digital channels. This risk was understood and addressed through concept testing of the creative with women and parents with children prior to the advertisements airing.*

*Where possible male, over 18 demographic filters are in place to increase the likelihood that that ads are seen only by the target audience, however there are some limitations in some channels due to sharing of streaming accounts in households. As noted above, the digital version of the advertisement that is the subject of the complaint (as aired on Foxtel) differs slightly from the free to air version which was adapted in recognition of the less targeted nature of free to air advertising. It has now been replaced by the free to air version in response to this complaint and process.*

#### *Campaign development*

*The campaign was developed to address the nominalisation of sports betting, where betting is advertised as a healthy, harmless, everyday activity, akin to playing sport and is portrayed as an important social lubricant amongst young adult males.*

*Extensive literature reviews drew out the known risk factors for sports bettors to become problem gamblers.*

- The risk of problem gambling increases with greater frequency and expenditure on sports betting, and more impulsive responses to betting opportunities, including in-play live action betting.*
- Participation in live action online sports betting is significantly associated with potential gambling-related problems, as it provides opportunities for fast-paced continuous betting, and requires quick and perhaps impulsive decisions without much time for reflection*
- Impulse betting, and betting options that enable this, pose substantial risks for some bettors. A higher problem gambling severity is associated with a less planned approach to betting, immediately before match commencement or during the match, and on impulse before or during the match.*
- Peer group pressure to bet in order to fit in with their friends is a significant risk factor.*
- Moderate risk gamblers are likely to be influenced by inducements (incentives) to gamble*



*Further insights for the target audience were gained using quantitative and qualitative research to identify the Think/Feel/Do for the audience.*

*Combined these insights assisted in formulating the campaign messages needed to encourage the audience to consider their betting behaviours.*

- *Knowing when to stop gambling*
- *Not being distracted or influenced by promotional offers*
- *Not gambling under the influence of alcohol*
- *Gambling within your financial means*
- *Not submitting to peer pressure*
- *Planning bets*

*The idea is to help bettors stick to a plan by giving them a guide they can follow; some rules that help keep them on track and out of trouble.*

*How to deliver these messages was carefully considered. Engaging with this cohort of gamblers is challenging because they will reject interventions that appear to be targeted at people with gambling problems - a better approach is to encourage them to change their behaviour without seeking external help.*

*Although it is a challenging audience, there is an urgent need to speak to this audience and deliver messages in a creative way that will attract their attention, speak to them in 'their own language' (as wagering operators do), and adopt a distinct tone, which is not immediately recognisable as that of Government.*

*Our research showed that an authoritative or dogmatic approach to communication with this audience would be alienating. There are deep, ingrained emotional benefits associated with sports betting and there is a need to connect emotionally over a period of time. Humour is an effective way to connect with young males who don't like to take anything too seriously.*

*Betiquette is a play on words, encouraging the audience to use a little old fashion etiquette when betting. The creative approach draws on an old-world feel, reminiscent of old beer and sporting posters, juxtaposing the virtual nature of online sports betting. Similarly, the voiceover used in aural executions references a 1930's-style radio announcer tone, reflecting a time when men aspired to be gentlemen and had a strong sense of etiquette in all aspects of life, including placing a wager. The message delivery is similar to that of wagering operators who excel in speaking to this audience however the creative delivery differentiates the campaign assisting in cut through.*

*As a NSW Government campaign, Betiquette undergoes rigorous peer review and compliance checks each year before any advertising activity. This is a multi-phase process, where the campaign is carefully scrutinised by a selection of senior marketers who make recommendations to the head of the agency for the approval of the campaign and the issuing of a compliance certificate.*





*The processes ensures that campaigns that go to market:*

- a. comply with the Act, Regulation and Guidelines*
- b. contains accurate information*
- c. is necessary to achieve a public purpose and is supported by analysis and research, and*
- d. is an efficient and cost-effective means of achieving the public purpose.*

*The campaign has received the appropriate endorsement through this process each year that it has been in market.*

*Research and evidence for the campaign*

*Multiple waves of research and concept testing research were undertaken as part of the campaign development. The creative has also undergone several rounds of concept testing at key junctures as the campaign expanded, including before launching on broadcast.*

*Each round of concept testing clearly showed that the creative was appealing for the target audience, contained the right messaging and, with repeated exposure, would be effective for our target audience to induce behavioural change.*

*When the media expanded into TV from digital advertising, two alternate creatives were tested to ensure the TVC was suitable for a potential unintended audience, namely females and children. Three versions of the ad were tested with varying levels of risquéness including the original, a moderate and a scaled back version. Results were positive with acceptance by all audiences for all creatives including this ad.*

*For those with children, for the most part, regardless of the execution shown, it was felt that the Betiquette campaign would have little impact on them as it would not be understood, nor be of interest to them.*

*Some parents with older children felt that the ad may provide a good opportunity to talk about gambling and responsible betting.*

*For our target audience however, the creative that omitted the overarching cheekiness of the campaign was not effective. It was felt to be less humorous and a bit 'try hard' than the other executions which ultimately made it less memorable, less likely to be mentioned amongst friends, and generally less effective. The relevance and appeal of the messages tested varied depending upon the individual situation of the bettor. Preference was based upon which scenarios they could personally relate to, rather than any stylistic or tonal variation. The key scenarios that resonated with respondents from the target audience were the 'peer pressure', a bet being 'too good to be true', 'borrowing from a mate' and 'knowing when to call it a night'. For this reason, these four themes run across the two television ads, and using media targeting, the audience would be exposed to both executions.*

*The testing did identify that while the ad may be off-putting to a small number of viewers, it is important to consider the context in which these ads will be seen. That is,*





*whilst watching sports on TV at a time when advertising is weighted towards 'male advertising' (betting, beer, etc.). This being the case, the potential for the ad to be off-putting is likely to be highly diluted.*

*The effectiveness of the campaign is regularly evaluated by external agencies. Results from the most recent evaluation show that for male sports bettors exposed to the campaign:*

- 94% recalled at least one key campaign message*
- 83% took some positive action as a result of seeing the campaign*
- 86% planned to take some positive action as a result of seeing the campaign*
- 80% learnt something new from the ads*
- 93% thought the ads were easy to understand*
- 76% thought the ads were for people like them*

*Frequent bettors recorded the highest rates of actions taken and actions planned, directly attributed to their exposure to the campaign*

#### *Response against the Code of Ethics*

*As a digital advert, the particular ad execution that is the subject of the complaint does not require CAD/ClearAds approval to air. The free to air versions of the Betiquette ads, however, are very similar to the digital versions, and have been reviewed by ClearAds with each ad given a G rating.*

*The media buy for the campaign acknowledges the very specific audience of male sports bettors and the need to intercept risky gambling behaviours, so although ads with a G rating can air at any time, ad delivery is exclusively tied to sporting environments where males are the prominent audience and risky gambling behaviour most likely to be taking place.*

*Media has been booked to ensure the advertisement appears only in programming that is highly targeted to the target audience.*

*From July 2020 to August 2021, the Betiquette media campaign has served over 39 million digital impressions (ads being served) with only one complaint lodged with Ad Standards.*

*This, combined with strong results in previous campaign evaluations, demonstrate that the media strategy or the campaign has been correctly pitched towards its target audience, with high rates of exposure among the target audience.*

*However, in recognition of the complaint and this process, the digital version of the advertisement has now been replaced by the free to air version, which has been determined to be G rated by ClearAds.*

## *2.1 - Discrimination or vilification*



*The Betiquette campaign does not discriminate against or vilify 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 campaign is based on extensive research and testing with the target audience of young male sports bettors. Testing specifically focused on understanding of the purpose of the advertisement and the attitude and behaviour change that the campaign seeks to achieve. This testing, and campaign evaluations conducted in 2017, 2020 and 2021 demonstrate that the advertisement does not discriminate or vilify young men, nor people with gambling problems. The 2021 campaign evaluation found that more than two thirds of those exposed to the campaign found the advertising informative, relevant, and engaging, to some extent.*

*It should be noted that the campaign's use of humour is an intentional and important strategy to avoid the further stigmatisation of people who gamble or experience gambling problems. There is significant stigma associated with gambling problems which is a barrier to seeking help for those affected. Unintentionally perpetuating stigma is a significant risk for behaviour change campaigns related to gambling, which this campaign avoids through its humorous approach and positive focus on strategies that can reduce the risk of experiencing gambling harm.*

*The campaign does not discriminate against or vilify women either. The depiction of a race-horse wearing a dress is intended as a humorous play on the word 'filly' and a warning to avoid attractive betting options. It is not a portrayal or vilification of women. The targeting of the ad to a male audience is due to the significant association between gender and sports betting behaviour, and the risk of gambling harm. As such, this targeting is also not discriminatory.*

*As noted previously, when the campaign was expanded to TV advertising, further concept testing was conducted to ensure that it was suitable for a potential unintended audience, namely females and children. Results were positive with acceptance by all audiences for all creatives.*

#### *2.2 - Exploitative or degrading*

*The advertising does not employ sexual appeal. The depiction of a race-horse wearing a dress is intended as a humorous play on the word 'filly' and a warning to avoid attractive betting options and does not employ sexual appeal.*

*The depiction of a man waking up next to betting slips with a bare chest and then climbing out a window dressed in a towel does also not employ sexual appeal. It is a reference to not experiencing 'bet regret', where one wakes up the next morning regretting the bets placed and money lost the previous night.*

#### *2.3 – Violence*

*The advertisements do not present or portray violence.*

#### *2.4 – Sex, sexuality and nudity*



*The advertising does not directly or significantly portray or reference sex, sexuality or nudity. Where it does so, in a very limited way it is with sensitivity to the relevant audience. Specifically, the depiction of a man waking up next to betting slips with a bare chest is a reference to betting not to sex or sexuality, but is a reference to the importance of avoiding ‘bet regret’.*

*The nudity portrayed in this scene is minimal (bare chested male), animated, and is of a non-sexual nature, as is the scene where he climbs through a window. The extensive testing and evaluation of the campaign did not identify any concerns from the relevant audience in relation to this minor treatment of sex and nudity.*

*The ‘sexual innuendo’ referenced in the complaint relates to a scene in which male characters compare betting slips, to communicate the importance of not submitting to peer pressure when betting. Findings from concept testing found that this play on words is amusing to many, and has social currency, with the potential to be joked about at the bar, and in doing so, give some men confidence to not increase their betting to keep up with peers.*

#### *2.5 – Language*

*The advertising uses language appropriate in the circumstances and for the relevant audience and medium. It does not use strong or obscene language.*

#### *2.6 - Health and Safety*

*The advertising does not depict material contrary to Prevailing Community Standards on health and safety.*

#### *2.7 - Distinguishable as advertising*

*The advertising is clearly distinguishable as advertising through the use of a government logo, a government URL website and end line voice over. It is placed within commercial breaks and recognised by ClearAds as an advertisement.*

*Campaign evaluations also demonstrate that not only is it distinguishable as advertising, but that it is clearly distinguishable as government advertising, with the majority of respondents correctly nominated a government organisation as the source of the advertising.*

#### *Conclusion*

*While we recognise that not everyone will appreciate Betiquette, the target audience understands, engages with and takes action as a result of this campaign. This is a positive outcome in achieving our bold vision of working towards zero gambling harm in NSW, for a population we know to be at significant risk of gambling harm.*

*Based on the extensive research that informs the campaign, the rigorous approach to campaign development, the strong results from multiple waves of campaign testing and evaluation, and the overwhelmingly positive response to the campaign we are confident that Betiquette is an important, appropriate and effective campaign that complies with the AANA Code of Ethics.*



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### THE DETERMINATION

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

The Panel noted the complainant's concern that the advertisement:

- Is sexist and derogatory in its depiction of women
- Contains sexual innuendo
- Is played during family viewing times which is inappropriate
- Only consider men/is aimed at men
- Is offensive as it uses taxpayer dollars to present a sexist and sexualized advertisement.



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

The Panel first noted that the issues of the advertisement being targeted towards men and the manner in which the advertisement was funded is not within the provisions of the Code and cannot be considered by the Panel.

**Section 2.1: Advertising or Marketing Communication shall not portray people 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 AANA Practice Note which provides guidance on the meaning of:  
Discrimination - unfair or less favourable treatment  
Vilification - humiliates, intimidates, incites hatred, contempt or ridicule  
Gender - male, female or trans-gender characteristics.

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

The Panel noted that the complainant had identified a scene in which a woman is depicted with a horse's head and that such a depiction was derogatory.

The Panel noted the advertiser's response that the depiction of a race-horse wearing a dress is intended as a humorous play on the word 'filly' and a warning to avoid apparently attractive betting options.

The Panel considered that most members of the community would not interpret the advertisement as suggesting that women are animals, unattractive or less than men but rather would take note of the accompanying voiceover and understand the metaphor.

The Panel noted the complainant's comment that the depiction of women throughout the advertisement is sexist.

The Panel noted that a woman is shown to be annoyed at her dinner partner and kicks him under the table as he is focussing on his phone. The Panel considered that this scene is representative of the rudeness of the man in focussing on his phone (and presumably gambling) while out to dinner with someone. The Panel considered that the woman is not depicted in a negative manner, but rather as justifiably annoyed.

The Panel considered that the content of the advertisement did not show the woman to receive unfair or less favourable treatment because of her gender, and did not humiliate, intimidate or incite hatred, contempt or ridicule of the woman because of her gender.

**Section 2.1 conclusion**



Finding that the advertisement did not portray material in a way which discriminates against or vilifies a person or section of the community on account of gender, the Panel determined that the advertisement did not breach Section 2.1 of the Code.

**Section 2.4: Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.**

The Panel noted the Practice Note for the Code states:

*“Sexualised images which include elements which would be attractive to children, such as cartoons or depictions of Santa, when in a medium which can be seen by children have been found to not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience. Images of naked people when viewed in a public space, where the nudity is evident and the focus of the advertisement, have been found not to treat the issue of nudity with sensitivity to the relevant audience, even when the image is not sexual in nature.”*

**Does the advertisement contain sex?**

The Panel considered whether the advertisement contained sex. The Panel noted the definition of sex in the Practice Note is “sexual intercourse; person or persons engaged in sexually stimulating behaviour”.

The Panel noted that a man is shown sneaking out of a bedroom window after spending the night with betting slips and considered that this scene bears some similarity to a person sneaking out after a sexual encounter, however considered that the advertisement does not contain sex.

**Does the advertisement contain sexuality?**

The Panel noted the definition of sexuality in the Practice Note is “the capacity to experience and express sexual desire; the recognition or emphasis of sexual matters”.

The Panel considered that some scenes in the advertisement do imply a degree of sexual innuendo and considered that the advertisement did contain sexuality.

**Does the advertisement contain nudity?**

The Panel noted that the definition of nudity in the Practice Note is “the depiction of a person without clothing or covering; partial or suggested nudity may also be considered nudity”.

The Panel noted that a man in the advertisement is depicted shirtless and wearing a towel on his lower half and considered that the advertisement did contain partial nudity.



## **Are the issues of sexuality and nudity treated with sensitivity to the relevant audience?**

The Panel considered the meaning of 'sensitive' and noted that the definition of sensitive in this context can be explained as indicating that 'if you are sensitive to other people's needs, problems, or feelings, you show understanding and awareness of them.' (<https://www.collinsdictionary.com/dictionary/english/sensitive>).

The Panel considered that the requirement to consider whether sexual suggestion is 'sensitive to the relevant audience' requires them to consider who the relevant audience is and to have an understanding of how they might react to or feel about the advertisement – the concept of how subtle sexual suggestion is or might be is relevant to the Panel considering how some sections of the community, such as children, might perceive the advertisement.

The Panel noted that the advertisement was broadcast on television and received a 'B' ClearAds rating, meaning that it cannot be broadcast:

In any Program that is broadcast between 5.00 am and 8.30 pm and is principally directed to Children (aged under 15); and

In a P, C or G classified Program on any channel:

Between 6.00am and 8.30am on any day; and

Between 4.00 pm and 7.00 pm on any day.

The Panel considered that the relevant audience was therefore likely to be broad and include children.

The Panel considered that the horse in the advertisement was presented in a humorous and satirical manner. The Panel noted that some scenes did contain a degree of sexual innuendo, such as:

Two men sitting next to each other, one looking towards the others lap. Their betting slips are shown with one being longer than the other.

A man wakes up in bed surrounded by betting slips, then is seen crawling out a window in a towel.

The Panel considered however that the sexual innuendo in these scenes is mild and unlikely to be understood by children. The Panel considered that the mild level of sexuality in the advertisement was not inappropriate for a broad audience which would include children.

### **Section 2.4 Conclusion**

The Panel determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant broad audience and did not breach Section 2.4 of the Code.

### **Conclusion**





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