



Case Report

1	Case Number	0234/17
2	Advertiser	Sportsbet
3	Product	Gaming
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	24/05/2017
6	DETERMINATION	Upheld - Modified or Discontinued
7	IR Recommendation	Reconfirm original decision

ISSUES RAISED

- Other Social Values
- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The advertisement featured (prominantly) disgraced Olympian and convicted drug cheat Ben Johnson (1988 games) talking about the "performance enhanced" app and included the line "puts the 'roid' in Android".

THE COMPLAINT

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

The ad seemingly promotes the use of performance enhancing drugs/substances which are banned in most levels of sport. I'm also not sure of the drugs legality. The ad also implies that all athletes from 'the eastern block' are users of performance enhancing drugs/substances. There is no comical value in the ad(s).

Use of known drug cheats to advertise sports betting facilities. Entirely inappropriate and offensive.

A gambling company shouldn't be glamourising cheating eg using banned substances as a performance enhancement. Sporting associations / businesses have enough problem in this area without this. The advertisement falls well short of community standards.

The ad celebrates the fact that Ben Johnson is a convicted drug cheat athlete and makes him look cool, as if he is someone to look up to. The ad glorifies the use of drugs to get ahead in sport and life in general.

It is an appalling validation of drugs in sport, performance enhancing drugs and the link to gambling. Whoever approved this advertisement at the company level, and at the broadcasting level, need a good hard look at themselves. As a parent, as a coach, as a sportsperson - I am APPALLED.

I work at the airport and have seen many children trying to dangle on the handle of a luggage trolley and it falls back on them hitting the back of their head on the floor and the trolley hitting them in the face. In fact in the ad you see the trolley slightly tilting for a second with the lady balancing off the back. This should be taken off air and a strong message sent via TV saying not to try this as it is very dangerous.

First of all Ben Johnson didn't win for any time frame. Once you have been done for steroids you are stripped completely. Not only does it promote gambling but people cheating in sport and dishonoring the person who actually won the event. They also pretend that drugs in sport is funny, and implies that gambling on any outcome, no matter if it is clean or not, is ok.

Steroid use is nothing to joke about in sports. I have seen it during prime time as well. It's not clever or funny it's disgraceful. I'm thankful my son is quite old enough for me to have to explain the ad.

The ad is targeted at people who are interested in sport, including during sports events at family viewing times. It lauds the career of Ben Johnson delivering the message that he was still a gold medallist, even if only for 48 hours. He is portrayed as fit, strong, and successful, implying this is because of steroids. The byline "putting the 'roid into android" suggests that steroids are effective performance enhancers and in no way balances this message with their negative consequences. The targeted audience (sport viewers and gamblers) are particularly vulnerable to steroid use and this ad normalises and promotes their use. I am particularly concerned that my children are exposed to these negative messages (both steroid use and gambling), during family friendly sports broadcasts, including during the afternoon. Please contact me if you require further information.

I feel that this advertisement glorifies the use of drugs in sport. Inappropriate messaging which may be seen at a time children are viewing.

The premise of gambling and a disqualified olympian based on cheating is a very poor partnership. The advertisement promotes features as "cutting corners" & "unfair advantages" etc relying on the past/imagery of a "drug cheating" presenter. The lack of any moral values is missing and I believe very poor judgement. Australians believe in fair go but not abuse of the system. I cannot fathom how a gambling product can promote this type of moral values. I believe it should not be shown on TV

The association between drugs, sports and cheating was portrayed in a joking and light-hearted way-a shocking attitude for any company and particularly when aired during a day time sporting event when many children would be watching.

The advert actively encourages short. UT's and implying drug taking will win, as this advert is on during day time youngsters will watch think it is acceptable to cheat, it is supposed to be fun but youngsters make take it literally. It is in very bad taste and offensive to all clean athletes

*The continual reference that drug use in sport is acceptable.
Putting the "roid" in android.*

*The add promotes drug cheating as being funny;
The add is suggestive that its OK to use drugs;
The add suggests that drug cheating is OK;
There is no time frame or limit on when the disgust or the guilt of drug cheating goes away;*

The content, being celebrating the disgrace of being a sport drug cheat. Play on words of steroids to android. This is not satire, nor humor, it is low and very dirty in regard to ethical conduct of sportsmanship. Outraged this remains being broadcast.

*Athletes who use drugs to cheat should not used to promote any product, nor should they be allowed to be paid for making light of the offences they have committed.
Drugs in sport is a serious problem in our society and allowing companies to use these offences to sell their products is offensive.*

It is glorifying both gambling and performance enhancing drugs (which are illegal and damage the sporting industry!)

The representation that enhancing performance through any means is good. By the use of the chosen celebrity, they are implying that taking drugs to enhance performance in chosen sport is good.

Sportsbet is endorsing sports cheats such as ben johnson which is totally inappropriate & offensive

The entire ad appears to glorify and/or condone performance enhancement in relation to sports, making multiple references alluding to steroid use and other banned substances. Given that the advertised product relates to gambling on the outcome of sporting events, such references are in poor taste and I believe are not appropriate.

Sportsbet linking 'performance enhancement' via drug cheat Ben Johnson with their brand

Is encouraging drug use of steroids, implies drug cheating is ok to an extent and is the other advert I have ever found totally offensive

It associates an illegal and dangerous action, in this case taking illegal performance enhancing drugs, and links them to be a successful sports gambler. It implies the taking of such drugs makes for a winning advantage. It suggests such an advantage is humorous and normal. It makes such behavior seem normal.

The add revolves around Ben Johnson and the fact that he is a drug cheat, it implies that if you 'cut corners' and take 'roids' your phone could be as fast as he was when he was on drugs. The whole add is just morally wrong and in very bad taste.

I'm disturbed by the fact the advertisement is promoting steroid use as a good thing. Not only is it illegal to take steroids without a prescription, but misuse can have devastating health consequences.

Not to mention that the misuse of steroids is cheating within the sports community, which seems rather odd to encourage in regards to a betting platform.

Both of these illegal actions are not just normalised by this ad, but actually encouraged as being a good activity.

I find this "joke" in very bad taste.

Making light of a drug cheat like it is a joke and something to be proud of is very poor form and is an example of poor moral behavior.

The promotion by a well known drug cheat in Olympic track that whatever it takes to succeed is acceptable is a highly undesirable concept to promote at any time, not to mention mid afternoon!

I object to the numerous references to Ben Johnson's drug cheating and how this gave him the an unfair advantage as though this was a good thing. The ad even used the line 'putting the roid in android'. This company may feel it is a funny play on words but considering that children will see this ad I feel it is inappropriate and quite disgusting.

I object to gambling but think the use of sports cheats is particularly offensive.

It's bad enough that betting agencies are allowed to glamorise and normalise gambling, now they are glamorising and normalising taking illegal performance enhancing drugs.

Considering they sponsor a number of sporting codes in Australia, it is a concern that they are promoting the use of illegal drugs. Also of concern is that this ad is playing during day time and prime time television when impressionable young children may be watching.

I have been heavily involved in athletics for the past 25 years through junior and senior athletics. Sporting bodies have invested significantly in educating young athletes about the dangers of using performance enhancing drugs and fair competition, yet Sportsbet seems to think steroid use is funny. Not only that, there are many athletes who have spent decades training to reach the highest echelons in sport only to be robbed of the rewards by drug cheats. I appreciate that it's supposed to be funny but in this context making light of cheating and health-endangering drug use is highly offensive. In my opinion, the messages contained in this advertisement are inconsistent with community values.

Sports and performance enhancing drugs should not be taken lightly, made fun of, these ads try and create champions of known sports drug cheats and make jokes if how they did it.

Absolutely disgusting.

It promotes gambling which I'm not against, but using a disgraced athlete with a history of steroid use to promote your gambling service is just wrong. Kids are going to see this are going to think it's okay to use performance enhancing drugs.

Ben Johnson is a drug cheat and the whole add appears to glorify sporting drug cheats or at worst that it is acceptable to artificially enhance your sporting ability.

I object to gambling advertising in principle because of the damage it causes in society, but this particular ad glorifies steroid use, using an acknowledged Olympic drug cheat to push the message. I realise advertisers are working for their clients in the pursuit of profit, but I did think there was regulation of what could be advertised and when. During the evening news is not an appropriate place for this appalling message - in fact I would say NO time is appropriate for it. I hope this will be addressed by the Bureau.

I object to them using proven and disgraced sports drug cheats as their spokespersons (paid) eg. Ben Johnson; I also object and oppose this sports gambling company associating and / or inferring sports drug enhancement as a positive as it promotes drug cheating or performance enhancement as being a good thing by inference or association. All these adverts should be withdrawn immediately.

This advert glamorises and makes light of drug use and doping in sport. Terms such as "putting the roid in Android" , "get an unfair advantage" and "an expert in performance enhancement" when referring to a sportsman who was stripped of an Olympic medal due to drug abuse are extremely inappropriate in a society already struggling to combat drug abuse.

It glorifies steroid use in sport and sends a message to the younger audience that cheating in sport by using drugs in the long run is okay.

There is nothing socially or morally correct about the contents of this advert.

It is the most offensive TV advert I have ever seen and therefore I feel the need to lodge a complaint which is the first time I've been compelled to do so.

If Ben Johnson was disqualified for drug cheating in sport then is it acceptable for him to promote a betting product that provides a perceived unfair advantage when betting on sports? Not a great message to send that because someone else cheated you should too.

I find it repulsive that a gambling company is having their product touted by a confirmed drug cheat. This sets an incredibly poor message for children involved in sport. It demonstrates that a huge company is willing to not only pay for you to appear, but they will use supposedly funny puns related to being a drug cheat to try and sell a product.

Performance enhancing drugs cause harm to individuals, and can result in death. Having this ad on television normalizes and makes light of this dangerous behavior. It's not funny, it's not cool, and the ad should not be on prime time tv during a program that children and teenagers watch.

A sports drug cheat spruiking sports betting on prime time TV? Suggesting that it's (nudge nudge) okay to 'cut a few corners'? A clear reference connecting 'roids' (and we all know what they are) with Android phones? Who in FACTS approved this?? They should be sacked - and the commercial immediately taken off air and buried a pit of sewerage where it belongs,

before any more kids get corrupted buy it. What a fucking disgrace.

Ben Johnson is a proven drug cheat and the ad actually is promoting cheating. Also it depicts other sporting drug cheats. This is sending such an irresponsible message. I am horrified by it.

It uses a drug cheat and banned Olympic champion

I object to the add on a number of issues

- 1. having an app for gambling during news time on free to air TV*
- 2. The content glorifies drug cheats. Is this really the value system we want promoted*
- 3. Gambling in its own right should not be allowed to be advertised.*

Unbelievable. Please have this offensive ad removed asap.

The recent advert featuring Ben Johnson is the most distasteful, and disgraceful attempt to lure people into gambling that I have ever seen. I'm embarrassed that an Australian broadcasting company and regulatory body would allow this on TV. The blatant promotion that taking steroids, cheating in life, taking shortcuts to cheat are all acceptable behaviors is disgraceful. I thought it was a joke at first, but realized it was a real ad. It got worse and worse as the ad went on. I was absolutely disgusted. This ad should be pulled immediately.

On top of gambling ads being offensive, for them to joke about illegal drug use is appalling. I would like this advertisement to be removed.

It also condones Johnson's knowledge of "sports enhancement". It turns a blind eye to the fact that Johnson used illegal drugs in sports enhancement. Johnson somehow is presented incredulously as a role model in this advertisement. It should be removed immediately, it breaches ethics, Truth and promotes gambling through a drug cheat. How low can an advertisement go?. It also connects drug cheating with gambling, a really dangerous development. Let commonsense prevail and remove this offensive ad.

I think it is in very poor taste.

Totally inappropriate to use drug taking people to promote betting.

Two things destroying sports; Drugs and Gambling. This ad does both - glorifying drugs and cheats in the sport. How can this be allowed during early afternoon or anytime of the day?

Firstly I object to sports betting in general and pleased with the progress on limiting it but to lower the standard even further by 'normalisation' of putting the 'roid' into android and juicing it up and making a joke about cheating is just not good for a society that has a drug crisis. We're spending millions to curb the normalisation of drugs and advertisers are laughing at that and contributing to the problem to line their pockets. This ad combines two of the biggest problems our country has and all the flow on subsequent family issues.

While so many organizations are struggling to wipe out the scourge of drugs in sport, we have these monsters promoting it blatantly.

Obvious reference to sports enhancing drugs normalise and legitimise what is illegal and immoral. Not the type of example to set for children

This ad glorifies doping and those who have chosen to participate unfairly to win.

This is blatantly trivializing drug cheating, promoting drug cheating and cheaters, and is in direct violation of code of ethics 2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety. This is at a time when teenagers will be watching television, the most vulnerable group for abusing performance enhancing drugs.

I object to this ad as I believe it is glorifying cheating in sport. I find it a very offensive that a drug cheat is being rewarded for cheating. I don't believe this ad sets a good example to children as the ad was shown at 8pm. It is also false advertising has Ben Johnson as was stripped of his Olympic Gold medal.

This advertisement glorifies drug taking on an Olympic games level. By using Ben Johnson, a convicted drug cheat to advertise gambling, and blatantly endorsing the use of cheating by drugs.

I believe it reflects on the executives of the station(s) who accepted the advertisement, and on the integrity (sic) of the people who own the advertisement.

This advert and the Sports Bet have always disgusted me. Continually aired through sport programmes and encouraging on line/phone betting I find disgraceful considering families being torn apart due to gambling addiction. Disgraceful by channel 9 and all so called sports / celebrity / presenters. Encouraging and teaching children to gamble is shameful and shame on all concerned in this company and advertising company responsible.

I'm disgusted that this ad was even approved. Using a drug cheat as a spokesman and referencing steroids in comparison to getting an advantage. Considering drugs in sport is an issue, I find the commercial offensive on many levels. Gambling in general is a social or shall I say anti social problem and yet this advertiser teams it up with drug references. Why not just have Ben Cousins doing the ad?!

Certainly I would hope this ad is removed but at the very least removed from daytime and prime time viewing.

Both the TV and radio ads are based on the idea of steroids/giving people an unfair advantage. The TV ad refers to Ben Johnson, disqualified from the Olympics as a drug cheat and makes reference to enhanced sports performance.

The fact that this ad campaign makes light of drugs in sport - particularly giving recent issues across various codes of football and the ASADA investigation - in extremely poor taste and highly inappropriate.

- 1. He should not be able to profit from advertising after cheating at sport*
- 2. It sends a bad message to kids that you can take drugs and still be a hero and get paid for being in adverts*

The references to cheating to win send a completely unacceptable message to viewers.

Considering this ad is being flogged throughout the football broadcast, there would be a huge number of young people receiving this message.

I object to a convicted drug cheat appearing on TV to promote a product.

Very poor taste to make light of drug users and cheating in sports given all the problems. I think it's appalling to advertise betting on sports anyway but this add makes light of all the serious issues.

During the ad comments were constantly made about performance enhancing, this may have been acceptable but the last catchphrase was put the Roid in Android! I feel the entire ad is in poor taste and actually sends a bad message about sports and drugs.

Completely inappropriate to use a drug cheat and the themes of drugs and cheating/performance enhancements to advertise anything. Sebds the message that drugs and cheating are fun and promotes gambling which is already a huge problem. The use of Johnson was particularly offensive.

*It gives a wrong message for children particularly.
It also reinforces the link between sports in general and gambling,
Worse it spreads the idea that even athletics is something to be bet on rather than admired or participated in.
the athlete is a former drug cheat.*

*The use of drug cheats to promote a gambling product infers the product can provide an advantage to beat the odds and be a more successful gambler.
Drug cheat should also not be able to profit from their infamy. I believe this is in bad taste.*

It glorifies a person who was discredited for having used performance enhancing drugs to win Olympic medals. This is problematic of itself and more so given that the product is linked to betting on sports fixtures.

The ad uses terms that I believe promote drug use overall and in sport specifically. They claim their app has "tested positive" like drug cheats in sport. It refers to pumping up an app like you would do in sports when using steroids and other enhancing drugs. It promotes drug use in sport as positive and associates drug use with success drawing the parallel that therefore their app is enhanced just like those who are drug-cheats in sport. I think that gambling ads are bad enough without promoting drug use and use in sports as a positive thing.

Seems wrong to say that drug cheating athletes are ok, and that kind of behaviour is ok.

The add uses drug cheats to insinuate that it's ok to use doping in sports to win, that taking this shortcut is quicker and easier. Utterly a disgrace to sports. This add should be taken down.

I cannot understand how or why an Olympic drug cheat would be used in any advertizing

campaign .surely there we many true olympic champions who could have been used as a positive example of what sport really means.i found the entire advertisement in very bad taste.

Promoting it is alright to take drugs in sport. States it is alright to get a bit of help. Claims he was a gold medallist for only 24 hours.

I find this add offensive to say the least not a good message to put on TV at a time when most kids are watching the news with their parents. sportsbet and most of the online gambling orgs are gruby operators at the best of time. this type of ad has no place on prime time TV. This ad stoops to an all time low even in this day and age it should be pulled quick or moved to a XXX time slot where it belongs.

Using a proven drug cheat to promote gambling on sport and blatantly encouraging cutting corners, getting an unfair advantage by whatever means available goes against everything we are trying to teach our young people about sportsmanship and fair play. It denigrates all those athletes who do the right thing and makes a mockery of our morals and ethics on and off the track and field. I am truly disgusted that this ad has been allowed on the air. How could this disgraceful display of making a mockery of the Olympic spirit and disrespecting all Olympians and fair minded people ever be considered as acceptable?

To promote this man, a convicted drug cheat, as someone whose advice you would take is offensive in the extreme. His demeanour suggests absolutely no remorse for his actions but rather seems to endorse them. That he could also be profiting financially from doing this ad is even more offensive. Sportsbet seems to not only be condoning illegal drugtaking but in fact to find it amusing.

Features Ben Jonson, a convicted drug cheat, and promotes the use of steroids

It was obvious that the ad was referencing the use of steroids in sport. Not only is this illegal and dangerous to health, it is not something to be snidely joked about. I didn't think it was funny . I also think that younger people should not see ads joking about this. It definitely sends the wrong message when these drugs are a big enough problem in some sports, particularly body building.

It made a mockery of being convicted as a drug cheat and definitely sent the wrong message.

I have concern that a person who was caught cheating at the Olympics is being used to promote a gambling product. Why is his conduct being glorified?

I object to using a known drug cheat, Ben Johnson to encourage people to use their ap is discussing.

Association of cheating/drug use with sports gambling, especially as so many peak sports bodies publically condem drug cheats and claim to be promoting drug-free competition. Am not sure if Sportsbet is associated with any sponsorship of sporting groups or clubs.

The fact that they are using a drug cheat to promote their product and promote/glorify the

use of drugs to get better performance is offensive and also the fact that he is profiting from this is sending the wrong signal to young people. I understand that the company is trying to use 'humour' to promote their product but there appears to be no low they will sink to to achieve this

I don't agree that Ben Johnson should be paid/rewarded for a crime he has committed.

I understand that Ben Jonson was dealt with in accordance with the requisite athletic authorities for having used performance enhancing drugs. As a consequence his record performances were stripped from him. To now use this person as a promoter of gambling on various being products sends all the wrong messages. Why not have a disqualified jockey promote betting on races, or a disgraced cricketer promote betting on their sport. I have never complained about advertising before, but I have seen the damage done to families through gambling and this is in poor taste. There is no doubt that the bookmakers need to rein in advertising if this is the best that they can do.

The advertisement featured (prominently) disgraced Olympian and convicted drug cheat Ben Johnson (1988 games) talking about the "performance enhanced" app and included the line "puts the 'roid' in Android". Gambling advertising is bad enough but aligning this with what appears to be the encouragement of the use of performance enhancing drugs is appalling.

Connection and reference to anabolic steroids a banned and illegal substance to inference that using this product will provide the consumer with a similar "super human" advantage.

The ad uses known olympic drug cheat Michael Johnson to promote a new feature of their gambling product. The glorification and depiction of drug cheats is offensive and unethical.

The use of 'roid' in advertising, glamourising cheating, Ben Johnson should not benefit from cheating through payment or further fame.

I feel very strongly about promoting drug cheats on tv for any reason. They have been disqualified from their sports for doing the wrong thing and now the add encourages us to follow them and bet. they shouldn't get any air play at all. It sets a bad example to every person in Australia. My young adult children have all commented on the add.

Illegal performance enhancing drug consumption should not be lightly considered. Governments spend a lot of money addressing this issue and then commercial interests are seeking to make profit from an activity that is subject to penalties. I object to gambling ads as gambling addiction is a problem that adversely affects workplaces, families, relationships and costs the community.

I was shocked and disgusted on many levels including but not limited to:

- i. any company considering someone with his background a suitable public spokesperson for it*
- ii. The obvious link between gambling and drugs*
- iii. The assumed legitimising of drug taking at any level but especially at the top, Olympic level*
- iv. The tone of the advertisement which seems to make light of his involvement and hence, by implication, drugs in sport*

v. Any Australian company making a payment to such a drug cheat
vi . His involvement seems to make light of the major health, heartbreak and criminal issue of drugs in our community
vii. In another sense it seriously brings into question the tactics used by gambling agencies and their total disregard for community morals and standards - gambling has nothing to do with legitimate sport And is ruining the enjoyment of many people's enjoyment of sport.

This ad was the last straw for me. I love sport and hate the proliferation of gambling advertising; the light being made of it and the impact it is having in our community. This ad seems to go to the next step of legitimising cheating and drug taking.

I realise that I am not the target market of this company , Sportsbet, or its marketing but in many ways that makes this advertisement even worse. I have never felt so strongly about an issue I have seen or heard in the media.

I have now Googled and realise that it was the Drug cheat Ben Johnson that was in the advertisement. It seems that the advertisement I have just seen was raised on Melbourne media this morning. I had not heard any of this before seeing the ad. My reaction was immediate disgust and something that I had to raise with an agency such as yours who should, I believe, take action to remove it from public circulation.

Time and place and making light of drug use in sport. Totally inappropriate.

Suggested that using performance enhancing drugs and cheating was acceptable and should even be condone. They then applied this rationale to using a performance enhancing betting app and how this would give you an unfair advantage. This blatantly goes against all the work undertaken historically to try to remove drugs from sports. Having Ben Johnson standing there with a big smile on his face when they refer to his earlier convictions sends totally the wrong message to the public.

Using Ben Johnson and the language in this ad are making light of drugs in sport and demonstrates everything that Australian sport is not. It is not putting a good message across to kids and is in my opinion against Australian moral standards.

*I was appalled as an elite athlete that they are making fun of cheating and drugs in sport to promote a sport betting app. Drug cheating is problem in the sporting community, and is not an issue to be made fun of or taken lightly.
Everything about the ad was distasteful. The humour was an affront to the values of all clean and hardworking athlete. Especially if people are making money off drug treats. It's an insult .*

Performance enhancing drugs are a huge problem in sport and this ad glorifies them, it was on during an episode of the Simpson's, how ridiculous

Sports drug cheating and gambling implying sports cheating is normal/ok/funny

Ben Johnson was in the advertisement who cheated at the 1988 Olympics. Using disgraced athletes to advertise betting is offensive.

The advertisement appears to glorify cheating in sports, it humiliates Ben Johnson who

clearly looks uncomfortable, and encourages people to participate in illegal activities (performance enhancement). I find it utterly disgraceful that this type of advertisement is allowed to be aired. It was shown twice during the show "The Voice", which is a family show and left me feeling very uncomfortable.

The was promoting a 'high performance' app for gambling on sport. The as featured drug cheat Ben Johnson, while promoting gambling on sport the ad was treating cheating in sport in a light hearted way.

As a parent, ex Rugby coach and concerned citizen this reference to performance enhancing products is so out of line.

Glorifies drug cheats and betting.

The ad infers that steroids are desirable for performance.

*Because it used a well known Sports Drug Cheat-Ben Johnson to advertise its new app which has been "roided up" for betting in sports.
It sends a bad message about drug cheats.*

The abuse of drugs in sport is a massive issue today. Johnson is shown laughing about the fact that he was sanctioned for drug taking, and the text of the ad is a whole series of puns related to drugs and drug use. I consider that showing this message during the broadcast of an AFL match, when we know that a whole team was recently severely punished for drug use, is massively hypocritical, and sends quite the wrong message to young people.

I was horrified to see an ad that sensationalises the use of steroids. It's bad enough that betting is allowed to be promoted at all on TV, but to also insinuate that the use of steroids is acceptable is absolutely appalling.

*SPORTSBET - Gambling advertisement with drug cheat Ben Johnson.
Sportsbet are using a drug cheat to promote their product. BETTING.
SPORTSBET ARE SAYING 'IT'S OK TO BE A DRUG CHEAT AND BELITTLE SPORT.
ASADA STATEMENT. Quote This advertising. Campaign belittles the achievements of clean athletes and denigrates those who work to protect clean sport across the world. End of quote.
I rest my case. And hope you withdraw this advertisement ASAP.*

Performance enhancing drugs use should not be referenced as a good means to get an advantage

The advertisement is inappropriate as Ben Johnson is a proven drug cheat. This add legitimises cheating. The advertisement is in a time slot that would be viewed by an audience that couldn't necessarily diseminate between acceptable community expectations and those that would be considered deplorable. Ben Johnson and the behavior he represents does not meet the standard of behavior that modern Australian Values represent. The fact that an unfair advantage should be a desirable attribute is apposed to the Australian ethos of a "fair go". The fact the gambling advertising is continued to be aired at a time slot that would be viewed by minors. They are grooming our youth to believe that wagering is normal

and this leads to multiple societal problems, that intern contribute to ever increasing costs to welfare and health, including the breakdown in the family unit and mental health.

By using BenJohnson who is one of the worlds biggest sporting drug cheats promoting that he "really knows his stuff" about performance enhancing is blatantly promoting that using drugs to cheat in sport is acceptable regardless of the consequences that he has robbed someone who is clean from drugs of their moment in history to achieve their goal and moment of glory. Belittles everything the sporting bodies are doing to rub out drug cheat in sport. Just like a drug cheat, Sportsbet looks like it will do anything for be noticed and get money.

This suggestion makes a mockery of the wrongness of cheating in sports and should not be used while on prime time viewing while young athletes are wainterested Ching television.

Glamorizing drug use and drug cheats by using Ben Johnson and using drug references.

This ad overtly promoted achieving unfair advantage by cheating using a famous Canadian drug cheat and other generic representations of drug cheats.

The athlete is a proven drug cheat and the ad made light of this practice to promote an already problematic activity.

I'm not easily offended and don't make a habit of complaining about ads - I usually just ignore them, but this one really struck me as off.

I was amazed to see this phone company is paying an Olympic drug cheat (Ben Johnson) to advertise their phone. What sort of a message does this send to our younger sporting generation. Shame on them. And shame on 'whoever' approved this advert ' for television.'

It offended me because I have been involved in competitive sport as a competitor for a few years and a follower snd supporter for 5 decades. Plus involvement in many roles of team sports all over Australia for as long. I can not stsnd cheating in any way. Nor do I believe cheats should be utilised to promote any aspect of sport and the financing and sministration of sport. Its just so completely wrong.

Drug cheat is promoting and teaching children that taking drugs in sport is okay. Have been on board of Adelaide Casino and seen what gambling does.

The fact that the Government wants to have sports betting aired only after 8.30pm and some want them banned supports my argument. I can see no justification for allowing this ad to be aired

Sportsbet ad re putting the droid in android using Ben Johnson in add & other sportsmen glorifying drug cheats totally in appropriate

It is indirectly promoting the use steroids in sports and gives the impression that all athletes in sport use steroids. It creates a link between using steriods and great benefits without consequences.

The add depicts drug cheat look-alikes like Ben Johnson, and Lance Armstrong etc who have

been caught out using performance enhancing drugs as an example of the betting app's advantages and usefulness. I think this is offensive and objectionable promoting drug cheats as positive and something we should aspire to.

Use of a renowned steroid cheat in sport. Sportsbet used him as spokesperson wherein he described "roids" and having an advantage or shortcut in betting/ sport.

Sportsbet used the disgraced former Olympic sprinter, Ben Johnson, to sell their product. [Recall he was stripped of his gold medal for drug cheating.] The overt and intended theme of the ad was linking Sportsbet with receiving and unfair advantage over its competitors. It amounts to: celebrating /endorsing cheating. I consider it unethical and certainly that it sends the wrong message to the community about proper conduct in sports. This is especially so for children, who could view the ad given it aired on a Sunday afternoon. Furthermore it shows Sportsbet see nothing wrong with paying/rewarding such a cheat and demonstrating this via their advertisement.

The advertisement trivialises the use of performance enhancing drugs. Not only is taking performance enhancing drugs illegal in many cases, in extreme cases athletes have died as a result.

The ad sends the wrong message regarding the use of drugs in any context.

The narrator says' " Ben's an expert in performance enhancement which is why he is endorsing Sportsbet' android app which you can download in 10 seconds". Ben Johnson then says, "Faster if you cut a few corners".

Slogan reads, "Putting the roid on android"

This is totally unacceptable particularly during an afternoon game.

I am offended that the ad is saying it appears it's ok to cheat plus I am really unhappy at the time that the ad was aired (in the middle of the evening news bulletin) when kids are probably watching.

My kids have not seen yet but surely we can do better than this crap. I never complain but this got me very annoyed.

Wrong message. What are they trying to promote. It's ok to get the edge by taking drugs!!

Not only did this ad come on in prime family viewing time on tv, it used a convicted drug cheat BEN JOHNSON (who infamously was stripped of his Olympic gold medal at the 1988 Olympics for testing positive to steroids in one of the most notorious doping cases in sporting history) to promote their product.

The link between, gambling, performance enhancing drugs, cheating and sport was clear and highly offensive.

Other sports were also depicted in the ad including cycling and swimming.

It's bad enough having gambling ads on tv... This was the most offensive ad I have ever seen.

Your considerations in having this ad removed from our screens would be greatly appreciated.

The ad is promoting and glorifying the use of steroids in sport. They are a gambling company that makes money from sport and as such should in no way condone or reference the use of steroids. I also think the timeslot is unsuitable as children should not be encouraged to increase performance with steroids. There are much better ways to get a message across than to say that your product is enhanced by steroids.

The advertisement promotes the use of steroids in sport, mind blowing references!

Encouraging drug taking either performance enhancing or for other illegal means. Never complained about any advert before . This is disgusting.

It trivialises cheating and steroid abuse.

The ad uses a sports celebrity who has been found guilty of using performance enhancing drugs to endorse the products performance. Also has the slogan "puts the roids in android" which I believe sends the wrong message.

It is completely unethical to reward a convicted drug cheat to star in an advertisement, assuming he was paid. Even if he was not paid, any reasonable person would find this advertisement offensive, and/or unethical and/or in extremely bad taste.

Using an athlete, Ben Johnson, who has been disqualified for drug offences to spruik a gambling company is offensive. It is a bad example for young Australians

The advert shows famous athletes that have won medals in the Olympic Games. These athletes have had medals stripped for doping charges. The ad promotes the use of steroids to enhance your performance, to be a better gambler with the new app for android devices.

I feel this ad is glorifying sports people who use performance enhancing substances to outperform others, when as a society we are trying to eliminate any performance enhancing drugs in sports. It seems to condone this type of behaviour.

Using disgraced sporting drug cheats like Ben Johnson to promote a new Android (Roid) application available.

Misguided and in extreme poor taste using drug using sporting cheats as a promotional tool.

I object to the use of Ben Johnson to promote sports gambling. The punchline basically said "putting the 'roid in android". Totally unacceptable, particularly at that time slot, during such a popular programme.

During the advertisement the company used an ex sports star to promote their product but they are literally saying cheating is ok. The sports person is an ex Olympian who was banned for doping.

This was screened 2020pm and promotes the use of banned substances in sport and glorifies his cheating

The main character in the advertisement is Ben Johnson - a disgraced sports drugs cheat.

The advertisement overtly references his drugs cheating.

The sports gambling industry is often associated with corruption. This advertisement seems to glorify the grubby side of sport and should be taken off immediately.

May be viewed by children. Generally very offensive to promote a sportsman who has cheated using drugs. To present him as a model for behaviour or purchase during family viewing may be considered socially damaging.

Ad featuring Ben Johnson.

Firstly, this ad features a drug cheat who was stripped of his medals and records. The ad discusses his history as a great sportsman.

This is unacceptable. Drug cheats are not to be admired or put on a pedestal. They most definitely should not be paid to represent a sports betting company (or is it ok to cheat with betting?).

The final catch phrase of the ad states "Putting the Roid into Android". It is not witty nor smart to make light hearted humour in reference to his known drug cheating for steroid use. It is downright offensive.

This ad sets a very low bar and clearly promotes drug cheating within Australian sports.

The campaign would appear to make light of the significant issues associated with performance enhancing substances in sports. Regardless of the truth or otherwise of the athlete named Ben Johnson's race and testing record, the advert is clearly making it appear that it is advantageous in sport and desirable to use some sort of enhancement or "cut corners" to be successful. The advert has so far played twice during the airing of Masterchef while being watched by our family including three children from age 17-11. How does such implied endorsement or support of sports enhancing substances get airplay during such a family show? Is this further evidence that free-to-air channels really want their audiences to switch to subscription services to avoid inappropriate advertising material?

It promoted, or at least joked about, the use of illegal drugs to improve performance.

It's bad enough that gambling advertising shows kids how easy it is to gamble and make it look fun. But now this ad goes another step glorifying cheating / performance enhancing methods. With a slogan or 'putting the roid in Android'

The ad uses a well known circumstance of illegal and unfair behaviour (use of performance enhancing drugs) to promote their product/service. Especially offensive in the 6PM time slot.

I don't think I have ever been more offended by a television's ad. Not only do I have moral objections to the glamorisation of sports gambling, especially during the day and during sports programs, but to use the representations of some of the worst sport's cheats to promote this product is morally reprehensible. I'm literally lost for words to describe my anger and level of offence at this ad.

This is in extreme bad taste and certainly not funny in any way

I do not think that it reflects what the majority of our society thinks is acceptable, in fact quite the opposite. We do not have adverts that encourage the use of drunk driving, cocaine use or lying to get what you want

*Athletes should not be encouraged to use illegal drugs
Rugby league has a bad enough reputation about illegal drug use without this endorsement
Does it mean that betting companies support the use of drugs such as steroids?
This is at a time when children are watching and I was horrified that parents would need to explain to their children who might be engaged in sport that this is not acceptable, in fact it is illegal
I have grandchildren who support the sport, play the sport and I would not want them to see this, to feel that our society think it is ok to cheat and use illegal and harmful substances
Both my partner and myself are horrified
I strongly object to gambling advertising in the first place (alcohol was banned during the footy game, why should we be allow adverts that encouraged to gamble) but this is in very bad taste as well
This is the first time I have ever felt the need to write and make a complaint
Please withdraw this advert and also consider if advertising gambling on TV is acceptable
Thank you*

As performance enhancing drugs are banned and/or illegal this could be construed as encouraging illegal activity. Particular focus on Ben Johnson Canadian athlete who was stripped of a gold medal.

Ben Johnson is a an acknowledged sports cheat having been stripped of his medals for taking performance enhancing drugs. This ad alludes to this incident multiple times. Eg things are better when you cut corners, putting the Roid (a slang term for steroids) into android and others. gambling sends a terrible message in my view and this is compounded by glorifying sports cheats. Reprehensible

*Positions the use of illegal substances as 'good'.
Promotes banned athletes and puts them in the spotlight.*

*Ben Johson is making money off a criminal act, which is illegal in itself. Sportsbet is abetting (no pun intended) him from profiting from an illegal act.
Further, the ad is on during the day when children are watching.
The ad is sick and in poor taste. It promotes to children watching that getting any advantage in betting as a positive and necessary act, like in sports. It promotes drug cheats, and enriches them. It provides an amoral model of behaviour for children.*

I find it offensive and in poor taste to use proven sports cheats to push this app. It is not funny, but makes light of their cheating.

They were using banned drug cheats to promote product with the tag line. He know about Roids with Android.

This is a terrible way to promote any products. It is OK to take drugs and cheat at sport

The ad is not only promoting the app but it is full of covertly promoting drugs in sport. Not only is it offensive it is dangerous especially at a time when drugs in sport almost everyday hits the news in some way. There is no place for this type of advertising. I truly hope someone with some logical sense will withdraw this advert immediately

Promoting their product by using disgraced ex sportsmen, Ben Johnson, & other look alike for a weight lifter and cyclist who were exposed as drug cheats. Talking about steroids and promoting this subject in a positive manner should not occur. Promoting steroids and drug cheats in prime time where both kids and adults are exposed is wrong. So many mixed messages are being sent to the public. " Drugs are ok if you are advertising or making money". So wrong.

I am fortunate to have been in athletics as a professional coach for 40 years. Currently I hold Australia's top /elite coaching qualifications and I find this commercial to be abhorrent and fly's in the face of every code of conduct for an athlete and Coach. It is a disgrace and a disgrace that anyone has to watch it. I am a clean coach and currently we are teaching our children to be clean. This commercial should be taken off the air immediately.

The ad glorifies Ben Johnson. He was found to be a drug cheat and the ad trivializes the use of steroids and virtually glorifies it! Absolutely disgusting ad.

Rewards drug cheats. Holds them up as role models. Trivializes their past drug abuse.

It's glorifying gambling aswell as taking steroids and that you can win at all costs. It's a disgusting image to portray especially in this day and age when gambling and drug taking are so prevalent in society. It's not funny at all and those who think it is must be stupid.

The advert uses a drug cheat to promote their product, making light of his cheating and showing various other athletes in training with suggesting they are juicing "taking steroids". This is being shown during a prime time AFL game which families would be watching. Not at all appropriate for family viewing and I find it appalling that a company should pay a drug cheat to promote their product and make light of his cheating.

I strongly object to the advert suggesting that drug cheating is ok. This is never ok. Also, the ad was played before the Essendon game, a team essentially ruined for a few years by scandals of drug use.

The time of the ad was cl ally when children could be watching.

Overall just not good enough.

This ad makes mention of cheating and manipulating the odds .

Can't believe this would be condoned.

*Advertising gambling is bad enough. Using someone like Ben Johnson to advertise any product is offensive, particularly during an elite sporting event in which we expect athletes to *not* use performance enhancing drugs. Making it into a joke sends all the wrong messages. The ad is irresponsible and should be withdrawn.*

The central figure in the ad is Ben Johnson, an athlete who was a drug cheat at an Olympic games. The message of the ad was that anything used to gain an advantage, in this case with betting on sports, was a good thing. This is sending the wrong message about sport, and gambling.

Ben Johnson is a drug cheat and is therefore not a champion. Gambling is bad enough without using this tactic to further legitimise cheating. Surely he should not profit from his cheating record.

I was offend as Sportsbet used a convicted drug cheat in there advertisement and used the tag line

"Putting the roid in Android" I feel this is glory drugs in sport and not providing a positive message to young kids watching the rugby league.

Ben Johnson was convicted of drug cheating in sport and they even refer to "performance enhancing" product in the ad. I have always been opposed to promoting gambling but at least until now it has always used good honest sportspeople. I think the references in this ad are so wrong on every level.

The flippant interlinking of drug cheats and sports betting is not funny and provides a poor example for younger viewers. It downplays the seriousness of drugs in sport. I have never lodged a complaint before. I like both sport and gambling, so I have no issue with either medium, but this campaign is ill advised, particularly after the AFL (Essendon) drug story of the last few years.

This is an appalling ad, it is encouraging anyone viewing to cheat and gain an advantage, using a disgraced former Olympic athlete as an example how it's ok to cheat and cut a few corners. The ad infers using illegal performance enhancing drugs is ok.

Ad promotes gambling, using reference to drug cheating, use of steroids, and that cheating is ok. All at the beginning of, and during a team football match. Very poor especially given the family nature of afl and all the issues surrounding drugs in football codes.

THE ADVERTISER'S RESPONSE

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

The essence of the Complaints assert that:

- *it is not cool to have [Ben Johnson] used in a gambling add: not at all...*
- *Ben Johnson is not a role model*
- *The ad is promoting and glorifying the use of steroids in sport*
- *The ad promotes the use of steroids to enhance your performance, to be a better gambler with the new app for android devices*
- *It promotes to children watching that getting any advantage in betting as a positive and necessary act, like in sports*
- *Promotes banned athletes and puts them in the spotlight*
- *There did not seem to be any implication that using performance enhancing drugs is wrong, bad for your health or just a stupid thing to do*

The ASB has identified section 2.6 of the AANA Code of Ethics (Code) as the section which

may have been breached based on the Complaints:

2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

Sportsbet's response to the Complaints

Sportsbet has considered the Complaints and strongly considers that the Advertisements do not breach section 2.6, or any other section of the Code for the reasons set out below.

1. First and foremost, the nature of an overwhelming majority of the Complaints is, with respect, irrelevant. The ASB is required to make a determination on whether or not the Advertisements breach the advertising requirements within the Code, particularly section 2.6. However, overwhelmingly, the whole tenor of the Complaints appear to be based on the complainants' own personal preferences, values or tastes and not on whether or not the Advertisements depict material contrary to Prevailing Community Standards on health and safety.

2. A further threshold issue is that the Advertisements are clearly and obviously a spoof and parody. They are in no way intended to be – nor could a viewer reasonably consider them to be – a portrayal of a realistic situation. Viewed in this way, the propensity of the Advertisements to depict material contrary to Prevailing Community Standards is significantly reduced.

3. Further, the Advertisements mock and deride athletes who have taken performance enhancing drugs. In no way, do the Advertisements glorify or promote the use of these substances. Although an attempt has been made to do this in a humorous way, it cannot be properly said that exposing drug cheats and their achievements to such mockery and derision could be said to be contrary to Prevailing Community Standards. On the contrary, ordinarily this sort of ridicule would be considered to have negative connotations and a deterrent effect – something which could reasonably be expected to be in line with Prevailing Community Standards.

4. The fact that Sportsbet has paid Mr Ben Johnson a sum of money to appear in the Advertisements and promote Sportsbet's Android App and that doesn't 'sit well' with a pocket of the community based on their moral compass or otherwise is plainly irrelevant for the purposes of the determination to be made by the ASB.

5. Advertising by its very nature is at times somewhat divisive and not all advertisements are universally warmly welcomed based on people's own unique personalities and dispositions. Regardless – this simply does not elevate apparent concerns of that nature to advertising which is either relevant to, let alone contrary to Prevailing Community Standards on health and safety within the meaning of the Code.

6. Sportsbet does not in any way condone or encourage the use of performance enhancing drugs. As a wagering operator, Sportsbet's business is built on the integrity of the underlying sporting and racing events that it offers markets on. Sportsbet works closely with sports controlling bodies, racing bodies and government agencies to eradicate integrity risks. With respect, it is ill-informed to suggest that Sportsbet, or any of the Advertisements, condone or encourage prohibited drugs in sport.

7. *The Advertisements do not show any drugs, nor do they refer to any drugs or in any way endorse or encourage the use of drugs. Simply showing people who have used, or are suspected to have used, performance enhancing drugs is not 'unhealthy' or 'unsafe', nor in any way in breach of the Code.*

8. *The Advertisements feature Mr Johnson and other 'performance enhancement experts' who are known or suspected to have used steroids to gain an unfair advantage, together with a play on the word 'roid', to promote Sportsbet's new Android App as something that is 'performance enhanced' and something that Sportsbet's Android customers should download.*

9. *Playing on this theme, the Advertisements include humorous steroid-related references such as 'jacked up' and 'juiced up' and 'everyone's on it' to promote the enhanced nature of the Android App. From this, there can be no reasonable deduction that Sportsbet is endorsing the use of illicit drugs.*

10. *The examples of performance enhancement shown in the Advertisements are clearly comical in nature and do not present themselves as real outcomes achievable through taking performance enhancing drugs. This includes showing Mr Johnson at the starting blocks lifting both of his hands off the ground in an unnaturally balanced position, the size of the weight that the Eastern Bloc weightlifter is lifting, and smoke coming from the cyclist's tyres to depict the speed he is generating.*

11. *These performance enhanced outcomes are in no way endorsed by Sportsbet in the Advertisements. If anything, the Advertisements mock the featured athletes by showing muscles in grotesque proportions and showing their performances as overt demonstrations of cheating. This is supported by the references in the Advertisements to an 'unfair' advantage that the Android App provides as an analogy to the unfair effect of taking performance enhancing drugs.*

12. *There is no statement or suggestion in the Advertisements that taking performance enhancing drugs is without consequence. On the contrary, the limited nature of Mr Johnson's limited short-term 'success' as a result of taking performance enhancing drugs is belittled by the subtle reference to the fact that he was awarded the 1988 Olympic gold medal for only 48 hours.*

13. *There is no suggestion in the Advertisements that performance enhancing drugs should be used by anyone. The reference to 'get on it' cannot be reasonably interpreted in the context of any of the Advertisements in totality in conjunction with the product that it is advertising as anything other than to download the Android App.*

14. *Sportsbet rejects that the Advertisements in any way encourage children to use steroids. The Advertisements depicts adults in adult situations and is clearly targeted towards adults who will understand the humorous and exaggerated nature of the Advertisements, as described above.*

15. *The Advertisements are shown in strict compliance with regulatory requirements for when wagering advertisements are able to be shown. The fact that some pockets of the community object to the ability for wagering companies to advertise their product or that the Advertisements have been shown during a particular sporting event and/or co-viewed with a*

minor is entirely irrelevant in considering whether or not it breaches section 2.6 of the Code.

16. *While we acknowledge that the Advertisements have attracted a number of complaints from pockets of the community wishing to express their personal preferences, values or tastes, the broader community sentiments are overwhelmingly positive, including a significant amount of support for the Advertisements through social media commentary. Support for the Advertisement has also come from prominent media personalities and social commentators such as 3AW's Neil Mitchell, who has described complaints about the Advertisements as an 'overreaction' and commented further that 'The only problem I have is that I believe he was paid'. In addition, among the raft of public opinion and commentary that are simply miffed at some of the fuss that has ensued following publication of the Advertisements – we draw your attention to the following:*

- *the opinion article in the Sydney Morning Herald on 20 May 2017 titled 'Critics of Johnson campaign rush to wrong conclusion' (enclosed);*
- *the Your Say section of the Herald Sun on 19 May 2017 titled 'Most HeraldSun.com.au readers don't think the Ben Johnson betting ad crosses the line (enclosed); and*
- *the Opinion in the Herald Sun by prominent social commentator Susie O'Brien titled 'Johnson just a sideshow on a dubious circus' on 16 May 2017 (enclosed).*

Conclusion

With the above in mind, the Advertisements cannot reasonably be interpreted as in any way depicting material contrary to Prevailing Community Standards on health and safety.

In Sportsbet's submission the Complaints lack foundation and should be dismissed.

THE DETERMINATION

The Advertising Standards Board (the "Board") considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the "Code").

The Board noted the complainants concerns that the advertisement makes reference to, condones or encourages the use of performance enhancing drugs/anabolic steroids/illegal activity and cheating. Complainants also raised concerns that the advertisement suggests use of steroids will provide the consumer with super human advantages and sends a bad message to children about the use of drugs in sport and in associating wagering with drug use.

Complainants also raised concerns that the advertisement uses a known sport drug cheat which glorifies drug cheats and that glamorising performance enhancing drugs is contrary to government messages on this issue, the significant work occurring to remove drugs from sports and makes light of the major health and criminal issues of drugs in the Australian community.

The Board also noted some complainant concerns that the advertisement uses Ben Johnson, and that this is improper as he should not benefit from his notoriety. The Board noted that the

employment of a particular person in an advertisement is an issue that is not within the Code of Ethics or Wagering Code and that this was not considered.

The Board also noted that the advertisement has a B classification. This is a classification meaning: Betting/Gambling “B” Definition:

Commercials relating to betting or gambling

Commercials relating to betting or gambling during a Live Sporting Event.

A commercial relating to betting or gambling must not 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.

News, current affairs and Sports Programs are not included in these time restrictions. Note that different rules apply for such TVCs during Live Sporting Events.

The Board viewed the television versions of the advertisement and noted the advertiser’s response.

The Board considered 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 Board noted the complainants’ concerns that the advertisement makes reference to, condones or encourages the use of performance enhancing drugs/anabolic steroids/illegal activity and cheating.

The Board noted the advertisement features predominantly, Ben Johnson an athlete who represented Canada as an Olympian in the 1980s, promoting the new betting app for Sportsbet. The advertisement includes scenes of actors who are depicted to suggest other athletes known to have used performance enhancing drugs such as a Russian weight lifter, a Chinese swimmer and an American cyclist. The Board noted that on television there were 2 versions of the advertisement, a 30 second and 60 second version. The Board noted that the shorter version only involves Ben Johnson and not the additional athletes.

The Board noted that the Australian Sports Anti-Doping Authority and its international counterparts identifies substances and methods that athletes cannot take or use. Steroids and their related substances are on the banned substance list <https://www.wada-ama.org/en/resources/science-medicine/prohibited-list-documents>. The Board noted that the ban on the use of these types of drugs in sport is widely accepted as the community standard on the taking of performance enhancing drugs and noted that substances can appear on this list for reasons including ‘The substance or method has the potential to risk the athlete’s health.’

The Board also noted that the use of performance enhancing drugs is widely seen as being potentially harmful to the health of athletes and there are a number of government strategies in the community to educate athletes

<http://www.health.gov.au/internet/main/publishing.nsf/content/illicit-drugs-in-sport>.

The Board noted that the advertisement states that Ben is “an expert in performance enhancement, which is why he is happy to endorse Sportsbet’s new juiced up android app.” The Board noted the advertisement shows other actors portrayed as athletes endorsing the new App as well. The Board considered that the context of the advertisement is to play on the word ‘Android’ when promoting the android version of its new app, and create references to ‘roids’, a slang term for steroids often associated with performance enhancement in sport and fitness.

The Board considered that there are numerous references and double entendres in the advertisement which are intended to mean steroids even though it would also be clear to the consumer that the advertised product is a wagering app.

Specifically the Board noted numerous statements in the advertisement: “when it comes to performance enhancement – Ben really knows his stuff.”; “new juiced up android app.”; “this thing is a hit with performance enhancement experts all over the world.”; “everyone’s on it.”; “scientific stuff injected into its back end.”; “faster if you cut a few corners.”; “its unfair advantage is endorsed by all the experts.”; “new jacked up, pumped up, feature injected android app, puts the roid in android.”

The Board noted the advertisement refers to the App having greater speed meaning that you can use the app even more quickly and get a bet on in “record breaking time” and that this is supported by Ben’s comment that it can be done faster “if you cut a few corners.” The advertisement also refers to “putting the roid in android” was a direct reference to the use of steroids and that this in conjunction with the depiction of Ben Johnson was a clear connection to his steroid use.

The Board considered that, while there is no depiction of drug use in the advertisement, the advertisement makes numerous clear references to drug use and in the Board’s view can clearly be considered to be a reference to drug use and that a strong reference to an activity does amount to ‘depiction’ within the terms of the Code of Ethics. The Board then considered whether the drug use is depicted in a manner that appears positive or in a manner that is contrary to prevailing community standards on health and safety.

The Board considered that the advertisement overall suggests that the ‘roid’ is a positive element to the new App and encourages people to use the new App to bet quickly. The Board considered that the impression of the advertisement makes light of drug use and that the use of drugs will enhance performance..

The Board noted the advertiser’s response that “the advertisements are clearly and obviously a spoof and parody. They are in no way intended to be – nor could a viewer reasonably consider them to be – a portrayal of a realistic situation.” The Board also noted that the advertiser considered that “the advertisement mocks athletes who have used performance enhancing drugs and does not glorify or promote the use of those substances.”

The Board considered that the use of a spoof or parody may be the vehicle to deliver the promotion in a humorous way, but that the use of humour does not necessarily outweigh or justify a message that reasonable people in the community might take from an advertisement. The Board also noted that there will be a range of views in the community about how humour in a particular advertisement affects the message of the advertisement.

The Board noted that the advertisement depicts a known Olympic drug cheat and references other athletes who have been found to use performance enhancing drugs. In the Board’s view

this depiction is done in a way that makes light of their use of a substance that is banned for use in sport. In the Board's view the use of Ben Johnson in conjunction with a humorous message about drug use conveys a message that there is not a negative side to drug use and cheating and could be seen as a suggestion that there are benefits to gain from cheating or from behaviour that will enhance your performance. The Board also considered that, despite the parody, there is little consequence depicted for these actions as the athletes are portrayed in a positive way, rather than showing a negative side to the choices they made in their sporting careers. The Board considered that the reference to Ben Johnson being stripped of his Olympic medal was minimised as a negative consequence by virtue of his now being depicted in a positive manner in the advertisement.

In the Board's view, the overall tone of the advertisement makes light of the use of performance enhancing drugs and of using performance enhancing drugs to cheat in sport. The Board did not consider that the advertisement condoned or encouraged drug use, but noted that section 2.6 of the Code requires only that there is a depiction of an activity that is contrary to prevailing community standards on health and safety. The Board considered that the prevailing community standard on health and safety is opposed to the use of performance enhancing drugs and to avoid drug use more generally. In the Board's view the advertisement depicts performance enhancing drug use in sport in a manner that is contrary to prevailing community standards on health and safety. The Board therefore determined that the advertisement breached section 2.6 of the Code.

The Board also noted complainants' concerns that the advertisement suggests use of steroids will provide the consumer with super human advantages. The Board considered that the depiction of the various activities of the athletes were unrealistic and because of the unrealistic nature of the depictions did not amount to a suggestion that use of steroids will provide superhuman advantages.

The Board also noted complaints regarding the impact on children with regards to messages about the use of drugs in sport and in associating wagering with drug use. The Board noted the B Classification of the advertisement and that the advertisement was broadcast during programming that was attractive to families – such as live sport, news and programmes not directly primarily to children. The Board considered that young children would be unlikely to understand the double entendre references to drug use and that there was not a breach of the Code on this basis.

Finding that the advertisement did breach section 2.6 of the Code, the Board upheld the complaints.

THE ADVERTISER'S RESPONSE TO DETERMINATION

Confirming the advertisement from our Android campaign was taken off air from Friday 2nd June onwards and will be modified following the upheld complaints against them.

INDEPENDENT REVIEWER'S RECOMMENDATION

The grounds for seeking a review of the decision of the Board are as follows:

1. Where there was a substantial flaw in the Board's determination (determination clearly in error having regard to the provisions of the Code, or clearly made against the weight of evidence)

2. Where new or additional relevant evidence which could have a significant bearing on the determination becomes available. An explanation of why this information was not submitted previously must be provided

3. Where there was a substantial flaw in the process by which the determination was made

The appellant has requested a review of the above determinations of the Board and has made this request for the three cases together. It appears from the review request that the appellant is citing both Ground 1 and Ground 3 as grounds for its review request.

0234/17 is a free to air TV advertisement, 0235/17 is a Pay TV advertisement and 0236/17 is an Internet/Social Media/ Facebook advertisement. The advertisements feature Ben Johnson and other sporting caricatures.

The appellant states that ‘there are one or more substantial flaws in the Board’s Determination’:

Flaw 1 – The Board applied the wrong test.

“The Board erred in applying the wrong test to assess whether or not the Advertisements breached Section 2.6 of the Code.

The Board stated that the test to be applied under section 2.6 in the following terms:

“The Board did not consider that the advertisement condoned or encouraged drug use, but noted that section 2.6 of the Code only requires a depiction of an activity that is contrary to prevailing community standards on health and safety”. [emphasis added]

Applying this test, the Board concluded that the Advertisements breached section 2.6 of the Code because they depicted the activity of “performance enhancing drugs in sport”, an activity contrary to the prevailing community standard.

Sportsbet submits that this is the wrong test.

Properly construed, section 2.6 of the Code is not breached simply if the subject matter of an advertisement (in this case, performance enhancing drugs in sport) is contrary to the prevailing community standard on health and safety. It is not the subject matter itself which must be contrary to the prevailing community standard – it is how that subject matter is depicted which must be contrary to the prevailing community standard for section 2.6 to be breached.

An example illustrates the distinction and the Board’s error. An advertisement simply dealing with solariums (an illegal product when operated on a commercial basis in Australia) may or may not be contrary to the prevailing community standards on health and safety – it depends on how the advertisement deals with this subject matter. If the advertisement encourages the use of solariums, it might be considered to be contrary to prevailing community standards on health and safety. On the other hand, an advertisement which conveys the risks associated with frequent solarium use (even if done by “making light” of this activity so as to engage the target audience) would not be expected to be contrary to prevailing community standards on health and safety.”

Flaw 2 – The Board failed to have proper regard to the negative portrayal of sportspersons who had been caught using performance enhancing drugs.

“The Board found that, although the Advertisements did not condone or encourage the taking of performance enhancing drugs in sport, the Advertisements did “make light” of sportsmen who had been caught using these drugs.

The Board, however, seriously erred in failing to give sufficient – if any – consideration to the Advertisements’ overall depiction of sportsmen caught using performance enhancing drugs.

The Advertisements expose Ben Johnson and the other sporting caricatures depicted to mockery, ridicule and derision. This message is apparent and conveyed by the Advertisements. This sort of treatment has negative connotations, which are entirely consistent with the adverse prevailing community standard to users of performance enhancing drugs in sport.

If the Advertisements invoke feelings of resentment for Ben Johnson and the other caricatures using performance enhancing drugs, which is consistent with the sentiment from the complaints relating to the Advertisements, this reinforces a message that drug use is ill-advised, which is entirely distinct from depicting material contrary to prevailing community standards on health and safety.

This fact – impermissibly overlooked by the Board in its Determination – has been identified by expert social commentators in the media. For example, Susie O’Brien noted that:

“The Sportsbet ad is a little corny, but it’s certainly not making light of athletes taking performance enhancing drugs ... the clear message is that drug cheats are a joke; they’re not worthy of being taken seriously in sport.” [Susie O’Brien, Herald Sun, 16 May 2017, p.21]

Similarly, Darren Kane observed that:

“Johnson bouncing up a running track with a mobile phone in hand “putting the ‘roid in Android” doesn’t one iota belittle the achievement of clean athletes, or denigrate those who work in whatever capacity to protect clean sport ... To suggest any of those things misses one crucial point. That Ben Johnson’s life after sport is a complete nonsense, to the point where the only way he can spin a buck is lampooning himself. ...Sportsbet using Johnson to spruik whatever new app the corporate bookmaker has developed makes Johnson look like a bit of a village idiot. An idiot who’s no doubt trousered some serious folding to deaden the embarrassment; but a husk of a man, just the same.”

In these circumstances, the Board’s finding that the use of Ben Johnson, in conjunction with a humorous message promoting its new app, conveys a message that there is no negative side to drug use and cheating not only lacks logic, it is also contrary to a relevant message conveyed by the Advertisements.

Conclusion

For the reasons set out above, Sportsbet considers that the Independent Reviewer should recommend that the Board reconsider its Determination.

REVIEWER’S COMMENTS

Flaw 1 – the Board applied the wrong test

The appellant appears to be invoking either ground 1 or ground 3 in its review application in

support of this first claim. Its contentions regarding this claim centre on the wording of Clause 2.6. which states as follows:

“Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.”

As quoted above the appellant cites a passage from the Board’s Determination which states: “The Board did not consider that the advertisement condoned or encouraged drug use, but noted that Section 2.6 of the Code only requires a depiction of an activity that is contrary to prevailing community standards on health and safety” (Reviewer’s emphasis added).

The appellant has interpreted this statement by the Board as a ‘test’ although the Board never uses that terminology. It is certainly an indication of the Board’s view of what, inter alia, might constitute a breach of Section 2.6. In addition, the appellant states that the Board concluded that the advertisements breached section 2.6 of the Code” because they depicted the activity of ‘performance enhancing drugs in sport’ an activity contrary to the prevailing community standards”.

Quite clearly, the activity the Board refers to in its determination is the use of performance enhancing drugs. Drugs themselves cannot be an activity.

Significantly, the actual wording of Section 2.6 refers to the depiction of material contrary to prevailing community standards on health and safety. The word ‘material’ is very broad and one can only assume that it was inserted into the Code with that intent. ‘Material’ can encompass the widest possible range of content. The AANA Practice Note offers no guidance on the wording of of Section 2.6 save for comments about Prevailing Community Standards and how they are assessed. On established principles then, the use of the word ‘material’ must be taken to have been chosen intentionally to mandate a very wide approach to the content which might be considered. Such breadth would obviously include an ‘activity’ and though the Board does not actually step through the exercise of stating this, it is implicit in the Board’s comments. The range of content possible in a multitude of different media would be extremely wide. The Section is clearly intended to capture that wide range of possibilities.

It is worth noting that the Practice Note offers no ‘test’ in respect of Section 2.6, nor, as noted above, does the Board use this word in its determinations. The word ‘test’ is one used by the appellant alone. The quote from the determination of the Board represents less a ‘test’ than the Board indicating one of the possible parameters which might be considered in assessing a breach under Section 2.6.

A close reading of the determinations of the Board indicates that its reference to the depiction of an activity being contrary to prevailing community standards was actually focussed on whether a reference to an activity amounted to a ‘depiction’.

In its determinations, the Board quotes what it refers to as ‘numerous references and double entendres in the advertisement which are intended to mean steroids’.

The Board continues in all determinations:

The advertisement also refers to ‘putting the roid in adnroid’ was [sic] a direct reference to the use of steroids and that this in conjunction with the depiction of Ben Johnson was a clear

connection to his steroid use.

In all three determinations, the Board concludes:

The Board considered that, while there is no depiction of drug use in the advertisement, the advertisement makes numerous clear references to drug use and in the Board's view can clearly be considered to be a reference to drug use and that a strong reference to an activity does amount to 'depiction' within the terms of the Code of Ethics.

The above quote from the Board is awkwardly expressed but the focus of its consideration is clear. It is focussed on whether references to an activity can constitute a 'depiction' (Reviewer's emphasis). The relevant depiction, in the view of the Board, was the reference to drug use in the advertisement. The appellant appears to have misunderstood the focus of the Board's words in this passage.

Moreover, the Board concludes in all three determinations:

In the Board's view the advertisement depicts performance enhancing drug use in sport in a manner that is contrary to prevailing community standards on health and safety and did breach Section 2.6 of the Code.

The Board in this quote is also clearly indicating that the manner in which the advertisement depicts performance enhancing drugs formed part of its consideration in making its determination.

Given the above, it may be that the reasoning of the appellant's review request on this ground is at cross purposes with the reasoning contained in the determination of the Board. The appellant, in support of its contention that the Board had 'applied the wrong test', states that the Board, in applying its 'test' 'concluded that the Advertisements breached section 2.6 of the Code because they depicted the activity of "performance enhancing drugs in sport", an activity contrary to the prevailing community standards. However, the Board has, in its determinations, consistently described the activity depicted as the use of performance enhancing drugs in sport, not the drugs themselves. It appears possible that this confusion by the appellant of what the Board considered constitutes the activity depicted in the advertisement may have contributed to the appellant's comments relating to what it regards as the proper construction of Section 2.6 when it states:

"Properly construed, section 2.6 of the Code is not breached simply if the subject matter of an advertisement (in this case performance enhancing drugs in sport) is contrary to the prevailing community standard on health and safety. It is not the subject matter itself which must be contrary to the prevailing community standard – it is how that subject matter is depicted which must be contrary to the prevailing community standard for section 2.6 to be breached."

The appellant offers no support or evidence for this contention regarding the proper construction of section 2.6. Here again, the appellant identifies performance enhancing drugs in sport as the 'subject matter' of the advertisement (presumably meaning the content or 'material' of the advertisement) whereas the Board's determination identifies the use of performance enhancing drugs as the activity depicted (the material or content) which is contrary to prevailing community standards on health and safety.

Regardless of these semantic differences, reference to the actual wording of section 2.6 serves to clarify the issue. As noted above, the use of the word ‘material’ in the Code is clearly intentional and indicates a very wide approach to the content of advertisements. It would perhaps have been helpful for the Board to make reference to this choice of words in the Code but its failure to do so does not constitute any error on its part. Future determinations relating to Section 2.6 may benefit from reference to the actual wording of the section. The word ‘material’ could encompass either the nature of the content or material of an advertisement AND/OR the manner in which that content or material is depicted in the advertisement. The breadth of the word ‘material’ offers no support at all for the contention that in order to decide a possible breach of section 2.6 the Board should focus exclusively on whether the manner in which content is depicted is contrary to the prevailing community standard.

On the contrary, the choice of words of Section 2.6 makes it clear that either the content itself, and/or the manner in which it is depicted, can be considered in assessing a breach of section 2.6.

The appellant offers the example of an advertisement dealing with solariums, stating that such an advertisement for an illegal product may or may not be contrary to prevailing community standards on health and safety depending on how the advertisement deals with the subject matter. Rather than this example illustrating “the Board’s error”, it simply states what amounts to a truism: advertisements featuring myriad forms of content may or may not breach sections of the entire Code depending on the manner in which the advertisement in question deals with the content.

The Board did not apply the ‘wrong test’ in assessing whether this advertisement breached Section 2.6 of the Code. Therefore, there is no substantial flaw in the Board’s determination on this basis and neither ground 1 nor ground 3 is made out.

Flaw 2 – The Board failed to have proper regard to the negative portrayal of sportspersons who had been caught using performance enhancing drugs.

The appellant appears to invoke ground 1 in this claim.

The appellant contends as follows to support its claim:

“The Board found that, although the Advertisements did not condone or encourage the taking of performance enhancing drugs in sport, the Advertisements did “make light” of sportsmen who had been caught using these drugs.

The Board, however, seriously erred in failing to give sufficient – if any – consideration to the Advertisements’ overall depiction of sportsmen caught using performance enhancing drugs.

The Advertisements expose Ben Johnson and the other sporting caricatures depicted to mockery, ridicule and derision. This message is apparent and conveyed by the Advertisements. This sort of treatment has negative connotations, which are entirely consistent with the adverse prevailing community standard to users of performance enhancing drugs in sport”.

The appellant continues:

“If the Advertisements invoke feelings of resentment for Ben Johnson and the other caricatures using performance enhancing drugs, which is consistent with the sentiment from the complaints relating to the Advertisements, this reinforces a message that drug use is ill-advised, which is entirely distinct from depicting material contrary to prevailing community standards on health and safety.”

The appellant goes on in its submission to quote part of two articles in the daily press by what it identifies as ‘expert social commentators in the media’. The views of these individuals are irrelevant to the Board’s task in making its determination in this case and are thus a neutral factor.

The appellant concludes:

“In these circumstances, the Board’s finding that the use of Ben Johnson, in conjunction with a humorous message promoting its new app, conveys a message that there is no negative side to drug use and cheating not only lacks logic, it is also contrary to a relevant message conveyed by the Advertisements”.

In its determinations on these cases the Board clearly acknowledges the appellant’s claim that “the advertisement mocks athletes who have used performance enhancing drugs and does not glorify or promote the use of those substances”. The Board considers this issue in conjunction with the claim by the appellant that ‘the advertisements are clearly obviously a spoof and a parody’. (The Reviewer notes that to mock or ridicule are synonyms for parody.)

The Board refers to its established principle that the use of humour is not necessarily a defence to a breach of the Code, commenting that “the use of humour does not necessarily outweigh or justify a message that reasonable people in the community might take from an advertisement”.

Directly addressing the issue of a positive or negative portrayal of Ben Johnson, including the issue of parody, the Board states:

“In the Board’s view the use of Ben Johnson in conjunction with a humorous message about drug use conveys a message that there is not a negative side to drug use and cheating and could be seen as a suggestion that there are benefits to gain from cheating or from behaviour that will enhance your performance. The Board also considered that, despite the parody, there is little consequence depicted for these actions as the athletes are portrayed in a positive way, rather than showing a negative side to the choices they made in their sporting careers. The Board considered that the reference to Ben Johnson being stripped of his Olympic medal was minimised as a negative consequence by virtue of his now being depicted in a positive manner in the advertisement.

In the Board’s view, the overall tone of the advertisement makes light of the use of performance enhancing drugs and of using performance enhancing drugs to cheat in sport”.

The appellant also raises the issue of resentment towards Ben Johnson and others arising from the advertisement. The appellant is referring to views expressed in the original complaints. These individual views are not material to the task of the Board in making its determination.

It is clear from its determinations that the Board did appropriately consider the

advertisements’ “overall depiction of sportsmen caught using performance enhancing drugs”, including the use of parody. Having done so, the Board has determined that in the advertisement “the athletes are portrayed in a positive way, rather than showing a negative side to the choices they made in their sporting careers”. The fact that the Board and the appellant disagree about the impact of the overall depiction of the athletes in the advertisement does not render the determination of the Board flawed. The Board was entitled to its view on this aspect of the advertisements and has appropriately articulated that view in the determinations. There is no substantial flaw in the Board’s determination on this ground. Ground 1 is therefore not made out.

Accordingly, the appellant’s application for review discloses no evidence that there was a substantial flaw in the three determinations of the Board nor that there was a substantial flaw in the process by which they were made.

REVIEWER’S RECOMMENDATION

I recommend that the determinations of the Board in 0234/17, 0235/17 and 0236/17 be affirmed.