



Case Report

1	Case Number	0255/13
2	Advertiser	Tatts Lotteries
3	Product	Gaming
4	Type of Advertisement / media	TV
5	Date of Determination	14/08/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The Powerball 'Change' advertising campaign is a series of scenes set in the form of a montage which depicts scenarios showing the freedom you could enjoy if you won Powerball:

- Change Address
- Change Cars

- Change Jobs

- Change schools
- Change gear

- Change perspectives

- Change futures

- Change Lives

THE COMPLAINT

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

The ad portrays young people sitting on the front of a cruise boat with their legs over the side. A program about water police pulled up a boat for this reason and explained that it was unlawful and very dangerous.

Furthermore, the boat is almost within touching distance of dolphins, and the law states a minimum distance you must keep away from dolphins. Not sure whether it is 100 or 200 feet.

It is not good for such a high profile ad to promote acts which, if copied, can get people into trouble with the law. All good time activities which they want to promote should be lawful.

THE ADVERTISER'S RESPONSE

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

The confidential complaint made by 'anonymous' received by Tattersall's Sweeps Pty Ltd (Tatts) on Thursday 18 July 2013 via ASB is in relation to the Powerball \$20 million 'Change' TVC. Tatts does not consider that it has breached Section 2.6 of the AANA Code of Ethics (Health and Safety) in any way. The scene the individual has referred to in the complaint would be approximately 20 – 30% of the advertisement (running approximately 1.5 seconds) and does not promote unsafe/unlawful practices pertaining to an individual's safety on board a boat or compromise the safety of animals, in this particular case dolphins.

There are a couple of aspects to the complaint that we address in turn below:

The advertisement portrays young people sitting on the front of a cruise boat with their legs over the side. The person states that an episode of water police pulled up a boat for this reason and explained that it was unlawful and dangerous.

Response: The advertisement is intended to be a brief glimpse of a lifestyle change that a person may make to their lives if they win the Jackpot in Powerball. It is a short advertisement and was prepared in 2009 by Publicis Mojo having regard for the relevant laws at that time. The particular scene in question was filmed aboard a registered dolphin tourist vessel and took place in New Zealand waters. Also there is only one mature aged female in the relevant part of the advertisement and she is sitting a little back from the edge of the boat. It is Tatts belief that the way in which the woman is positioned on the side of the boat portrays her sitting in a relaxed and safe manner and that she is taking reasonable care for her own safety with both hands holding onto the safety railing. Furthermore, the boat is travelling at an extremely slow speed and the woman is not behaving in a way that would put her at risk.

The advertisement shows the boat is almost within touching distance of dolphins, and the law states a minimum distance which they felt to be unlawful and dangerous behaviour; secondly that they perceived the boat to be situated too close to the dolphins in this same scene.

Response: The dolphins in this particular scene are being playful and do not portray an image that they are in any danger or distress. On this occasion the dolphins chose to ride the

bow wave of the vessel. All due care was taken to ensure the vessel adhered to approach conditions and the safety of the dolphins was taken into account, however guidelines state that should the animal take an interest in your vessel, you are not committing an offence. In the production of any advertising which may feature animals, Tattersall's ensure that the safety of any animals is not compromised.

Tatts does not believe that it has breached the prevailing standards in relation to this advertisement as there are no standards (such as wearing a helmet or wearing a seat belt) that have potentially been breached.

The Powerball 'Change' TVC was launched in August 2009 and has been on-air regularly since this time. The primary target audience is adults aged between 25 – 54 years. Tatts, in consultation with its media agency (Mitchell & Partners) makes every effort to ensure the TVC is only shown in programs targeting an adult audience.

The Powerball advertising campaign is series of aspirational scenes which depict the freedom to enjoy what you would do if you won Powerball.

It is important to note that this advertising campaign has been in market for approximately 4 years, first airing in August 2009 and this is the first complaint that has been received to date from a member of the public in relation to this advertisement. Tatts regrets that the complainant has been offended by elements of the advertisement. However, Tattersall's believes that the issues raised by the complainant do not breach Section 2.6 of the AANA Code of Ethics in any way as the advertisement does not portray any behaviour which is contrary to prevailing community standards on health or safety.

THE DETERMINATION

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

The Board noted the complainant's concerns that the advertisement depicts people sitting on the front of a cruise boat with their legs over the side which is dangerous and against the law and that the boat is too close to dolphins which is also against the law.

The Board viewed 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 advertisement depicts various scenarios where you could make your life better if you won the lottery and that in one of these scenarios we see a woman sitting at the front of a boat with her legs dangling over the side.

The Board noted the complainant's concerns that it is illegal to sit on a boat in this manner. The Board noted that the woman is holding on to a safety rail and appears to be seated in a safe manner and is on a sailing boat. The Board considered that the woman is not depicted in a manner what would be considered to be contrary to public safety.

The Board noted the complainant's concerns about the proximity of the dolphins to the boat. The Board noted that relevant marine mammal regulations regulate boats approaching such mammals but as dolphins are sociable creatures they frequently approach boats and swim alongside them. The Board considered that in the context of the advertisement the inclusion of the dolphins is to further highlight the idyllic nature of a lottery lifestyle. The Board considered that the advertisement does not encourage or condone boats being deliberately driven close to dolphins or other marine animals.

The Board noted that the final scene in the advertisement shows three young women sitting in the back seat of a convertible and considered that whilst it is not clear whether they are wearing the appropriate seat belts the image is very fleeting and the advertisement does not suggest that they are not using appropriate restraints whilst in a moving vehicle.

The Board determined that the advertisement did not depict material which would be in breach of Section 2.6 of the Code.

Further finding that the advertisement did not breach the Code on any grounds, the Board dismissed the complaint.