



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0261-19
2. Advertiser :	Sportsbet
3. Product :	Gambling
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	21-Aug-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.4 Sex/sexuality/nudity
AANA Code of Ethics\2.5 Language
AANA Code of Ethics\2.0 Other
AANA Wagering Code\2.1 Directed to Minors

DESCRIPTION OF ADVERTISEMENT

This television advertisement features protesters lying on the ground holding signs like 'we won't stand for this' and 'My Arms HURT.

A voice over states, "Sportsbet's new iPhone app is so easy even the permanently offended can claim a winner winner chicken..."

One of the protesters gasps.

The voice over continues, "oh sorry. Vegan based dinner."

One of the protesters holding a phone displaying the app states, "it's so easy, it's outrageous" and he throws the phone away.

A woman is depicted at an airport holding balloons and a sign saying 'Prince Okocha'.



The voice over states, "Carol here thinks she's about to inherit a Nigerian fortune but finding some value across sport and racing..."

Carol says, "seems to good to be true".

The voice over states, "Hah that's gold Carol. Even wizz kid Tod Carney can use it".

Todd Carney is shown standing next to a fountain of a young boy who is urinating upwards. Todd Carney says, "yeah, piece of..." and a toilet is heard flushing.

We see a close up of the fountains face being hit by the stream of water as the voice over states, "The new iPhone app from Sportsbet. It's foolproof."

THE COMPLAINT

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

It showed people who were 'permanently offended' by things, and then said something about a burger or bbq, and then said oh sorry vegan lunch/burger or whatever the word was. This is an insult to people's choice and beliefs to follow a vegan lifestyle. This hatred would not fly if the ad was insulting religion or cultural choice. This ignorant and offensive advertising needs to be stopped.

It was offensive an stereotyping of Nigerians as scammers on a national tv. Stereotypes is what divides people. That was low and there was no humour in it.

It's bad enough that he did it in the first place let alone glorify it and pay him for such a ridiculous act by featuring him in the commercial

I am extremely upset, offended, appalled, disgusted & outraged with this ad, not only for its continued promotion of gambling, which affects the lives of a gambler and their family by having it shoved down their throats, to have what seems a light hearted end saying "gamble responsibly", they should be ashamed of promoting such a devastating thing. Would they be as likely to promote cancer the same way?

I also cannot believe they have also added Todd Carney to this ad, a disgraced rugby league player who was kicked out of the NRL for doing the same thing as he stands so proudly besides a statue. How degrading, disgusting offensive, that this ad is allowed to be run on prime time TV. Shame on you Sports Bet, and Shame on you Todd Carney for being apart of such a disgraceful, disgusting ad campaign.

I implore you to have it removed ASAP and any further ads promoting gambling. Obviously people will still gamble, however, we do not need to be continuously reminded of it.

It ruins lives!



Carney was sacked in Australia from NRL and rep football because of internet posting of him urinating into his face, a practice apparently called "bubbling".. Using Carney beside the fountain image is directly correlated to the same offensive conduct that had Carney removed from the public football arena. If it is inappropriate conduct in the football forum, then it is most definitely inappropriate that the ad is airing at the time that children are watching the ad(before school time). It almost certainly would lead to a child asking a question regarding the ad content. Parents should not have to answer such questions about prurient content. It shows terrible judgment on the advertiser's part, and Channel 7 for airing the ad.

The add was on TV at a time when young children and teens under 18 could be viewing. Gambling can contribute to financial hardship of low income and unemployed persons. It can also become a major contributor to financial hardship to persons afflicted with an addiction. I believe if gambling ads are permitted to be aired on any media it should be restricted to between midnight and 5am and should contain warnings about the dangers of gambling and the financial risks.

Sports Bet are advertising an online gambling app. They are advertising with the inference that 'Whilst some things are too good to be true , online gambling is actually good'. They attempt this by using a series of references of things that may seem "too good to be true, but is actually a scam, so you will be caught out", whilst inferring that the Sports Bet online gambling app is the opposite.

Section 2, sub-section 2.1 of the AANA Code of Ethics says 'Advertising or Marketing Communication shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

I object to the racism portrayed, in specific relation to Nigerians in the advertisement. Nigerians are represented as scammers. The Nigerian rational names and cultural clothing is misrepresented to be portrayed as comical. This specifically goes against the AANA Code of Ethics as this discriminates against or vilifies Nigerians as a person, as a section of the Australian community on account of race, ethnicity and/or nationality.

The impact on Nigerian-Australians and African-Australians at large is degrading and may impact their health, safety and ability for fair and reasonable employment opportunities. Further, there are African-Australian children currently in schools having to face the backlash of this under the belt advertisement.



For the so called 'creatives' that came up with this ad and the legion of 'boys club' approval lines that it must have undergone, you need to know that you are actively hurting people based on a series of email scams that originated in the 1990's and ceased fairly quickly thereafter.

There are over 220 million people in Nigeria. If 1% of people attempted to scam or do harm, that's 2.2 million people. So whilst it may seem as though it is prevalent, it's hurtful as 99% of the country can also be seen as good citizens with good intent.

On balance, the Nigerians that are in Australia are extremely well educated and are actively committed to contributing to Australia and the ongoing wellbeing of the country.

I want the advertisement removed from all tv, radio, print, social media or any forum.

I want SportsBet to issue an advertisement that has the same duration, length and saturation to market, as this one that SportsBet released which vilifies Nigerians.

The apology advertisement demands are as follows:

- issues an apology to Nigerians and African-Australians*
- states they misrepresented Nigerians and anyone associated to Nigerians or African-Australians*
- states that this was an attempt at a joke that was leveraged from the 1990's and they are actively aware that on balance it does not exist in African-Australian culture*
- that Nigerian-Australians are extremely well educated and are actively committed to contributing to Australia and the ongoing wellbeing of our country, as are all African-Australians, on balance*
- that they are sorry if they contributed to the vilification or misrepresentation of African-Australians in any way*
- Any offence caused or issues people have faced related to that, they will be held responsible*

Please inform me of the outcome and the pursuit of SportsBet being held to account. I want to be aware if SportsBet are going to issue an advertisement that has the same duration, length and saturation to market that will work to remove the vilification of Nigerians.

This is imperative as how much longer are we going to allow companies with massive profit margins to marginalise a community, simply for profit or advertising reach? It needs to be rectified as the Nigerian-Australian community deserves the false allegations of their reputation, to be redeemed.

I was offended for two reasons.

1) The add presents the vegan protesters in a really negative light. Given the current climate crisis and the recent statement from the WHO and other government bodies, I



find it pretty inappropriate that this add is demeaning towards a group of people that are really just trying to make a positive change in the world. I understand, a lot of vegans give the community a bad name by being quite aggressive, but in my opinion, it's important that we change this stigma and encourage people to think with compassion when it comes to what they are consuming!

2) Secondly, the lady that is waiting for her 'future husband' at the airport is quite sad and awful and demeaning towards women. I don't know any stats, but I would say it's more like that men are going to be catfished by people overseas, and in my opinion, it's just distasteful.

*Todd Carney was suspended for this act, he was caught on video performing it. Sports Bet are using this and him in their add
It's a sexual reference / act and is disgusting to say the least
What is it advertising for Sports Bet, I have no idea.*

THE ADVERTISER'S RESPONSE

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

We refer to your letter dated 12 August 2019 and the Complaint mentioned above regarding Sportsbet's 'Foolproof' advertisement (Advertisement), a digital file of which is attached.

The Complaint

Ad Standards has identified the following sections of the AANA Code of Ethics (Code) and the AANA Code for Advertising and Marketing Communications to Children (AMCC Code) as those which may have been breached based on the Complaint:

2.1 Advertising or Marketing Communication shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

2.5 Advertising or Marketing Communication shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

2.6 Social Values: (a) must not portray images or events in a way that is unduly frightening or distressing to Children; and (b) must not demean any person or group on the basis of ethnicity, nationality, race, gender, age, sexual preference, religion or mental or physical disability.



For completeness, Sportsbet has also addressed section 2.6 of the Code (below):

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

Sportsbet's response to the Complaint

Sportsbet rejects that the Advertisement breaches sections 2.1, 2.5, 2.6 or any other section of the Code or the AMCC Code for the reasons outlined below.

Section 2.1 of the Code – Discrimination or Vilification

In short, the Advertisement does not discriminate against, vilify or otherwise depict people in a derogatory manner. As described in detail below, the portrayal of each character in the Advertisement is purely satirical and without prejudice to, or disparagement of, any particular individual or representative of a community group.

Lifestyle choices (vegans) – the primary complaint is that the reference to being vegan is an 'insult to people's choice'. Sportsbet acknowledges the Community Panel's view on 'discrimination and vilification'. It is with this in mind that the language and imagery used in the Advertisement does not negatively depict veganism as a lifestyle choice.

In the Advertisement, the voiceover which corrects the preference for a 'vegan dinner' over a 'chicken dinner' is used as a jovial 'nod' to the political correctness of a modern society which embraces different beliefs, opinions and views held by various groups within the community. The humour is in the individual's rejection of so called 'mainstream' approaches. This is reinforced by the outraged protestors who demonstrate that they may be against 'everything', but have 'no problem' when it comes to using Sportsbet's new app.

(b) Gender / Age – the crux of the humour does not create a negative perception or otherwise vilify or discriminate against older women; rather it deploys an eccentric and flamboyant character to demonstrate the 'foolishness' of waiting for someone at an airport who may never arrive.

(c) Nationality – the Advertisement does not discriminate or vilify Nigerians because none of the required elements of inequity, bigotry, intolerance, contempt or inciting hatred (among others) are present. The notion of a fictional 'Nigerian prince' is used solely to illustrate the 'waiting woman's' fanciful idea of pursuing a romance with a wealthy foreign royal whom she has never met.

Section 2.5 of the Code – Inappropriate language



*The Advertisement does not at any point, use inappropriate or obscene language. To the contrary, use of the word ‘p***’ in the Advertisement is consistent with the permitted phrases provided by the AANA and which include ‘pissed off’ (amongst others). Notably in the Todd Carney clip, the reference is less explicit than that permitted under the AANA Practice Note as the actual word is not stated.*

*In keeping with the AANA’s Practice Note, words and phrases which are innocuous, in widespread and common use in the Australian vernacular are permitted under the Code. The reference to ‘piece of p***’ in the Advertisement is a reference to something being easy and is consistent with colloquial usage – the context being, the ease of using Sportsbet’s new app.*

Section 2.6 of the Code – Prevailing Community Standards (Health & Safety)

Acknowledging the Community Panel’s comments that section 2.6 of the Code is what ‘generally applies when it considers complaints about gambling advertisements’, Sportsbet notes that:

the themes in the Advertisement do not contain practices contrary to health and safety. The nature of activities depicted in the Advertisement significantly depart from the categories contemplated in the AANA Practice Note on unsafe or harmful practices (i.e. bike-riding without a helmet, not wearing a seatbelt or bullying);

the Advertisement does not condone Todd Carney’s infamous ‘bubbler’ incident; to the contrary, it is portrayed as being ‘foolish’. As the Community Panel has recognised, ‘the issue of bad taste is one that does not fall within the scope of the Code’.

Section 2.6 of the AMCC Code – Social Values

Under the AMCC Code, advertising and marketing communication which is directed to parents or adults (among others) is not subject to the restrictions which apply to those forms of communication to ‘Children’ (aged 14 years or under).

We respectfully submit that the AMCC Code is not relevant to the Advertisement for reasons which include:

the Advertisement is not ‘directed primarily at children’. The nature of the advertised product targets adults 18+ years who may lawfully use Sportsbet’s app;

Sportsbet’s app is not available for use by a Child and so cannot be of ‘principal appeal to children’;

the Advertisement does not contain any Children’s theme, character, visuals, language or a storyline that would appeal to Children. Each of, protesting, dating and the Todd Carney satire, are activities of a theme and nature which objectively appeal to adults; and



the fact that the Advertisement is visible to Children, does not amount to it being directed at a Children's audience noting, 'it is not the intent of the AANA for this Code to apply to advertising or marketing communication which is directed at adults or older children, or advertising or marketing communication that may be seen by children, but is not directed primarily to them.'

Conclusion

Sportsbet regrets if the nature of the Advertisement was misconstrued or considered by the complainants to be 'distasteful'. However, Sportsbet has taken care in delivering the 'foolproof' message throughout the Advertisement to playfully communicate the ease of using Sportsbet's new app.

For the reasons demonstrated above, Sportsbet submits that the Complaints are unfounded and do not breach the Code.

References:

- 1. AANA, 'Code Crux: discrimination and vilification' at: <https://aana.com.au/knowledge/blog/code-crux-discrimination-vilification/> (19 June 2018)*
- 2. Ad Standards, 'Discrimination and vilification' at <https://adstandards.com.au/issues/discrimination-and-vilification> (accessed on 14 August 2019)*
- 3. AANA Code of Ethics – Practice Note (November 2018)*
- 4. AANA Code of Ethics – Practice Note (November 2018)*
- 5. Ad Standards, 'Gambling advertising' at: <https://adstandards.com.au/issues/gambling-advertising> (accessed on 15 August 2019)*
- 6. AANA Code of Ethics – Practice Note (26 November 2013)*
- 7. Ad Standards Community Panel Determination, 'Manscaping', Case Ref. 0137-18 (11 April 2018)*
- 8. AMCC Code – Practice Note (April 2015)*
- 9. AMCC Code – Practice Note (April 2015)*

THE DETERMINATION

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

The Panel first outlined the complaints received about the advertisement.

- Complainants were concerned that the placement of the advertisement was inappropriate, particularly the placement during the evenings when many young children would be watching, and that the advertisement had caused children to have many questions about the content of the advertisement.



- Complainants' were concerned about the tasteless of the advertisement.
- Complainants' were concerned about the depiction of Todd Carney in the advertisement, that his previous actions are glorified, and that he received payment for appearing in the advertisement.
- Complainants' were concerned that the advertisement was for gambling, which should not be allowed.
- Complainants' were concerned about the advertisement being discriminatory and vilifying towards Nigerians by stereotyping them as scammers.
- Complainants' were concerned about the advertisement being discriminatory and vilifying towards women including vulnerable women.
- Complainants' were concerned about the advertisement being discriminatory and vilifying towards older people.
- Complainants' were concerned about the advertisement being discriminatory and vilifying towards vegans.
- Complainants' were concerned about a sexual act depicted in the advertisement.
- Complainants' were concerned that the language of the advertisement was inappropriate, specifically the reference to "piss".
- Complainants were concerned that the behaviour depicted is associated with bullying.
- Complainants were concerned that the advertisement could be viewed by children, and concerned about the ease of use of the app.
- Complainants were concerned that the advertisement glorifies irresponsible behaviour.
- Complainants were concerned that showing a fountain urinating into its face is inappropriate for children to view.
- Complainants were concerned that the advertisement focuses on uneducated people who should be taught to keep away from gambling.

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

The Panel noted that this television advertisement has two versions:

A 30 second version features protesters lying on the ground holding signs like 'we won't stand for this' and 'My Arms HURT'. A voice over states, "Sportsbet's new iPhone app is so easy even the permanently offended can claim a winner winner chicken..." One of the protesters gasps. The voice over continues, "oh sorry. Vegan based dinner." One of the protesters holding a phone displaying the app states, "it's so easy, it's outrageous" and he throws the phone away. A woman is depicted at an airport holding balloons and a sign saying 'Prince Okocha'. The voice over states, "Carol here thinks she's about to inherit a Nigerian fortune but finding some value across sport and racing..." Carol says, "seems to good to be true". The voice over states, "Hah that's gold Carol. Even wizz kid Tod Carney can use it". Todd Carney is shown standing next to a fountain of a young boy who is urinating upwards. Todd Carney says, "yeah, piece of..." and a toilet is heard flushing. We see a close up of the fountains face being hit by the stream of water as the voice over states, "The new iPhone app from



Sportsbet. It's foolproof."

A 15 second version features the voiceover "Sportsbet's new iPhone app is so easy to use even former rugby league wizz kid Tod Carney can use it". Todd Carney is shown standing next to a fountain of a young boy who is urinating upwards. Todd Carney says, "yeah, piece of..." and a toilet is heard flushing. We see a close up of the fountain's face being hit by the stream of water as the voice over states, "The new iPhone app from Sportsbet. It's foolproof."

The Panel first addressed some complainants' concerns that were not an issue under the Code of Ethics.

The Panel noted that former rugby league player Todd Carney is depicted in the advertisement. The Panel noted that in 2014, Todd Carney had his contract with the Cronulla Sharks terminated after a photograph of him urinating into his own mouth was released on social media. The act was referred to as a "bubler" and the incident was widely publicised.

The Panel noted that many complainants' concern was around the use of Todd Carney and the concept of him being rewarded or paid as a result of his previous behaviour. The Panel noted that Todd Carney does not replicate his previous behaviour in the advertisement, but noted that many members of the community made the connection based on their previous knowledge of him.

The Panel noted it had previously considered the use of well-known people in cases 0026-18 and 01022-19. In case 0026-18:

"The Board noted the complainants' concerns that the advertisement features Mike Tyson who is a convicted rapist and that he should not be allowed to be used to promote a product in Australia. The Board noted the public concern around this issue however considered that advertisers are free to use whoever they wish in advertisements and that this is not a matter which falls within Section 2 of the Code unless the use of the person is in some way depicting a breach of the Code.

"The Board considered the depiction of Mr Tyson and noted that his history was not mentioned in the advertisement and that not all viewers would be aware of who he was. The Board noted that his appearance with the tiger is a reference to his character in a movie. The Board considered that the advertisement did not reference or condone his criminal history, and that his depiction in the advertisement was not a depiction that breached a provision of the Code."

However, in case 0022-19:

"The Panel acknowledged the concern in the community relating to the use of the actor Charlie Sheen particularly in relation to past behaviour in relation to women. The



Panel considered that in this version of the advertisement the comments made by Charlie Sheen are predatory and the advertisement capitalises on this negative representation in the treatment of the women in the advertisement. The Panel considered that advertisers are free to use whoever they wish in advertisements, however in this instance the use of Charlie Sheen with catch phrases directly referencing his real-life persona added to the overall power imbalance in the advertisement and the ridiculing and humiliation of the women.”

In the current case, the Panel considered that the depiction of Todd Carney was a direct reference to his previous behaviour. However, the Panel considered that this reference to his previous behaviour, while considered tasteless by many members of the community, was not a reference which breaches any provision of the Code.

In that vein, the Panel also noted that the concept of a person being paid or “glorified” for previous behaviour as a result of their appearance in an advertisement was not an issue within the Code of Ethics. The purpose of the Code is to consider the content of advertisements, not any moral or ethical issues involved in the employment of talent for an advertisement.

The Panel noted complainants’ concerns that the advertisement focuses on uneducated people who should be taught to keep away from gambling. The Panel considered that this aspect of complaints was not within the charter of the Panel.

The Panel then considered issues which are under the Code.

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that ‘advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.’

The Panel noted the Practice Note to Section 2.1 of the Code which provides the following definitions:

“Discrimination – unfair or less favourable treatment

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule”.

The Panel noted the complainants’ concerns that the advertisement is discriminatory towards Nigerians by suggesting that a Nigerian person is scamming the woman.

The Panel noted the advertiser’s response that the notion of a fictional “Nigerian prince” is used and considered that there is no depiction of this fictional person.

The Panel quoted the www.scamwatch.gov.au website which states:

“Nigerian scams involve someone overseas offering you a share in a large sum of



money or a payment on the condition you help them to transfer money out of their country. While these scams originated in Nigeria, they now come from all over the world.”

The Panel noted that the concept of a Nigerian person scamming someone is a well-known trope, and considered that the comment is directed towards illegal activity rather than Nigerians specifically.

The Panel noted a complainant’s comment that the concept of a Nigerian scam is an issue from the 1990’s, but considered that scamming is an ongoing concern for both the authorities and members of the community.

The Panel considered that most members of the community consider the concept of a “Nigerian scam” to be representative of many or all online scams of the same type, rather than a scam being performed by only Nigerian people.

The Panel considered that the advertisement does not incite hatred, contempt or ridicule of a Nigerian person or the Nigerian culture, but rather is disdainful of scammers in general.

The Panel considered that the advertisement does not depict Nigerians in a manner that is unfair nor in a manner that would be likely to humiliate or incite ridicule. The Panel determined that the advertisement does not discriminate against or vilify a person or section of the community on account of nationality.

The Panel noted the complainants’ concerns that the advertisement is discriminatory towards women.

The Panel noted the advertiser’s response that the advertisement uses an eccentric and flamboyant character to demonstrate the “foolishness” of waiting for someone at an airport who may never arrive.

The Panel noted statistics for dating and romance scams on www.scamwatch.com.au . The Panel noted that the 2018 statistics show that women are more likely to be a victim of a scam, and lost more money to scams in 2018.

The Panel considered that the advertisement is representing a current situation where a woman is possibly being foolish, but considered that the advertisement does not suggest that all women are foolish or will be the victim of a scam.

The Panel considered that the humour in the advertisement was from the overdramatization of the character in flamboyant clothing and a big sign, and was not specifically related to the gender of the person.

The Panel considered that the woman was not shown to receive unfair or less



favourable treatment, and while she was shown in a situation where she was the victim of a scam, she was not humiliated or ridiculed because of her gender. The Panel considered that the depiction of the woman would be unlikely to be considered by most members of the community to incite contempt or ridicule of women in general.

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

The Panel noted the complainants' concerns that the advertisement is discriminatory towards older people.

The Panel considered that although the woman in the advertisement appears to be middle aged, there is no language or imagery in the advertisement that comments on or references her age. The Panel considered that her age is irrelevant, and considered that this representation does not show her to receive unfair or less favourable treatment as a result of her age. Nor is it a depiction which humiliates, intimidates, incites hatred, contempt or ridicule for the woman in the advertisement or middle aged people in general.

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of age and determined that the advertisement did not breach Section 2.1 of the Code.

The Panel noted the complainants' concerns that the advertisement is discriminatory towards vegans.

The Panel noted it had previously determined that veganism is a section of the community which can be considered under section 2.1 of the Code in case 0105-17, in which:

"The Board considered the issue of 'veganism' and whether 'vegans' are a section of the community within the terms of section 2.1 of the Code. The Board noted that section 2.1 prohibits discrimination or vilification on the basis of 'race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.' The Board noted the AANA Practice Note which clarifies that: "political belief" includes 'support for or opposition of a particular political party or ideology.'" The Board considered the Macquarie Dictionary definition for ideology and noted that the Dictionary defines ideology as: 1. The body of doctrine, myth and symbols of a social movement, institution, class or large group. The Board considered that the ideology of the vegan community meets the definition of a social movement or group which shares a doctrine as stated within the Practice Note.



“The Board accepted that veganism can be a choice for religious reasons and that it is also an ideology shared by a group of people. The Board agreed that the reasons behind a person’s veganism are varied but in the context of the Code, the consideration of vegans as a group can reasonably be considered under section 2.1 of the Code. “

The Panel further noted case 0105-17 which depicts a billboard with images of two registration plates. The first says vegan, the second bacon, with the word becomes in between the two. A line of text below says everyone has a story. The Panel noted the determination in that case:

“The Board noted that overall the concepts depicted in the current advertisement are intended to be humorous and are not targeting a particular person or group of people. The Board noted that individuals can order the product online and can review the options available to see if there is one that suits them. In the Board’s view, the example of ‘Vegan becomes Bacon’ in this campaign is not an aggressive or vilifying reference to those who make this choice and does not amount to a depiction that discriminates against a person or section of the community.”

In the current case, the Panel considered that the advertisement does make a reference to vegans when the voiceover corrects the phrase “winner winner chicken” to “oh sorry. Vegan based dinner.” The Panel considered that this was trying to be inclusive of vegans, and it was not said in a mocking or derogatory tone.

Overall the Board considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief and did not breach Section 2.1 of the Code.

The Panel considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Panel noted one complainant’s concern that the advertisement depicted a sexual act.

The Panel noted that urophilia is a recognised sexual fetish involving urine, however considered that the reference to Todd Carney’s incident does not have a sexual tone or implication and there is no sexual reference in the advertisement.

The Panel considered that most members of the community would consider the advertisement to depict sex, sexuality or nudity and determined that the advertisement did not breach Section 2.4 of the Code.



The Panel considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided”.

The Panel noted the complainants’ concerns that the use of the word “piss” was offensive and inappropriate for an audience which would include children.

The Panel noted the Practice Note to Section 2.5 which states:

“Words and phrases which are innocuous and in widespread and common use in the Australian vernacular are permitted (provided they are used in a manner consistent with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner). Examples are “bugger”, “shit”, “pissed off”, “crap”, “bloody”, “cheap bastard”, “bum”, and “balls”.”

The Panel considered that “piss” is drowned out by other sounds in the advertisement, however considered that most people would be able to infer the word. The Panel considered that the phrase is not used in a demeaning or aggressive manner in the advertisement.

The Panel noted it had previously considered the word “piss” in a transport advertisement in case 0457-14, in which:

“The Board noted the advertiser’s response that the advertisement forms part of a responsible drinking campaign and considered that the phrase, “piss-up” is often used to describe the drinking of alcohol and is generally considered to be part of the common Australian vernacular. The Board considered that the use of the term, “piss-up” in the advertisement is consistent with its colloquial use and is not gratuitous.”

The Panel noted that “piece of piss”, “piss-easy” and the like are commonly used colloquialisms in Australia. The Panel acknowledged that some members of the public would prefer for this term not to be used in a context where children could hear it, however considered that most members of the public would consider the use of the word to be not inappropriate when used in the context of the scenario depicted in the advertisement.

The Panel considered that the advertisement did not use language which was inappropriate in the circumstances and did not contain strong or obscene language. The Panel determined that the advertisement did not breach Section 2.5 of the Code.

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



The Panel noted the complainants' concerns that the concept of urinating in someone's face is a locker room practice often associated with bullying and antisocial behaviour and that depicting this is condoning that behaviour.

The Panel considered that the advertisement is clearly not in the context of a locker room scenario, and there is no depiction of hazing or bullying. The Panel considered that the advertisement is not encouraging or condoning antisocial behaviour or bullying.

The Panel noted complainants' concerns that the advertisement glorifies irresponsible behaviour.

The Panel considered that the advertisement states that using the app is so easy that even Todd Carney can do it, and contains a reference to his previous behaviour. The Panel considered that the theme of the advertisement is "foolproof" and depicts this scene in a manner that implies Todd Carney is foolish. The Panel considered that this is not glorifying the behaviour of urinating into one's mouth.

The Panel then noted complainants' concerns that showing a fountain urinating into its face is inappropriate for children to view.

The Panel again noted that the fountain used in the advertisement is of a naked boy – similar to the well-known Manneken Pis fountain in the centre of Brussels - who appears to be urinating into its own face. The Panel noted that a scene depicting Todd Carney with the fountain in the background appears in both versions of the advertisement, with an additional closer scene in version 2.

The Panel considered that the scene focuses on the full fountain for approximately two seconds in version one, and four seconds in version 2. The Panel considered that this scene is sufficiently edited and shadowed so that the statue's genitalia is not easily visible.

The Panel considered the close scene in version 2 which is on screen for two seconds. The Panel noted that the statue is depicted holding its penis and urinating into its face. The Panel considered that this scene is fleeting and is clearly a fountain. The Panel noted that the concept of fountains urinating is not uncommon, and again noted that although the act may be considered tasteless by many members of the community, it was not an act which could be found to breach the Code and its depiction in an advertisement which would be viewed by a broad audience including children is not inappropriate.

The Panel then considered whether this advertisement breaches the AANA Wagering Advertising and Marketing Communication Code (Wagering Code).

The Panel noted complainant's concerns that the advertisement was aired at a time



when children could view it.

The Panel noted that the advertiser is a company licensed in a State or Territory of Australia to provide wagering products or services to customers in Australia and that the product advertised is a wagering product or service and therefore the provisions of the Wagering Code apply.

As per the AANA Wagering Advertising and Marketing Communication Code Practice Note:

“The Code applies to advertising and marketing communication for wagering products and services provided by licensed operators in Australia..

In particular the Panel considered Section 2.1 of the Wagering Code which provides: *‘Advertising or Marketing Communication for a Wagering Product or Service must not, having regard to theme, visuals and language used, be directed primarily to Minors’.*

The Panel noted that Minors are defined in the Code as persons under the age of 18 years.

The Panel noted that “directed primarily” means aimed in the first instance.

The Panel considered that the advertisement has no theme, visuals or language that would be attractive to or directed to minors and considered that the advertisement was not targeting children and was not directed primarily to minors. The Panel noted that while football player Todd Carney was depicted in the advertisement, this would not hold primary appeal to children. The Panel considered that the advertisement was clearly directed at an adult audience.

The Panel noted the advice provided in the Practice Note to Section 2.1: *“This provision does not apply to advertising and marketing communication which is directly primarily to adults; nor does it apply to advertising or marketing communication that may be seen by minors, but is not directed primarily to them.”*

The Panel considered that while some aspects of the advertisement may appeal to those aged under 18, the advertisement wasn’t directly primarily to them.

The Panel determined that the advertisement did not breach section 2.1 of the Wagering Code.

The Panel the noted complainants’ concerns that advertising the ease of use of their app is inappropriate; and that gambling advertising as a whole is inappropriate and should be banned.

The Panel considered that whether or not a gambling related product or service is



allowed to be advertised is a matter for government. Concerns relating to the legality or social benefit of allowing the advertising of such products were not issues within the Wagering Code and the Panel is unable to adjudicate on such matters.

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