

# Case Report

<b>1</b>	<b>Case Number</b>	<b>0266/11</b>
<b>2</b>	<b>Advertiser</b>	<b>Sportsbet</b>
<b>3</b>	<b>Product</b>	<b>Gaming</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Print</b>
<b>5</b>	<b>Date of Determination</b>	<b>27/07/2011</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheled - Modified or Discontinued</b>

## ISSUES RAISED

- 2.6 - Health and Safety      within prevailing Community Standards  
2.3 - Sex/sexuality/nudity      Treat with sensitivity to relevant audience  
2.2 - Violence Domestic violence  
2.2 - Violence Other  
2.1 - Discrimination or Vilification    Sex

## DESCRIPTION OF THE ADVERTISEMENT

Image of Julia Gillard lying across Bob Brown's lap: he appears to be about to spank her. The image is obviously fake and is framed by a gilt picture frame. The accompanying text reads, "Sportsbet.com. Our Spanking New Tax Beater" and there are odds on whether the Carbon Tax bill will be passed through Senate.

## THE COMPLAINT

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

*I am horrified that in the year 2011 companies and advertisers think that this ad is appropriate. The message that it is acceptable for a man (the implication is that the relationship between the two is husband and wife) to "spank" a women because she has misbehaved is outrageous. The expression on their faces reflects the imbalance of power between the two.*

*The photo used in the advertisement shows an act of violence by the man towards the woman. The woman is depicted in a position which suggests she is struggling and very distressed by the man's actions. The man is depicted holding the woman down with his left arm while he strikes her with his right. The man appears to be angry with the woman.*

*The slogan "Our Spanking new Tax Beater" brings to mind the phrase "wife beater" which serves to underline the imagery used in the accompanying photo. The image itself has nothing to do with on line betting.*

*Sexist , disrespectful of personalities portrayed. Disrespectful of consideration being given to an important issue (carbon in the atmosphere) portraying violence as fun and a million other things.*

*Uses the word spanking and illustrates this by using an image of Bob Brown with an aggressive/angry look on his face sitting on a chair with Julia Gillard bent over his knees about to hit her.*

*I found the ad offensive as it includes a photo of the leader of a major political party spanking the Prime Minister of Australia. It is degrading to women, the office of the Prime Minister and has sexual overtones.*

## **THE ADVERTISER'S RESPONSE**

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

*The advertisement promotes a new betting market for sportsbet.com.au.*

*The market provides prices at which Sportsbet members can wager as to whether or not the carbon tax will pass through the Australian Senate. The introduction of the new betting market reflects what Sportsbet regards as intense public interest in the carbon tax and the unusual politics around its introduction.*

*The complaints variously allege that the advertisement breaches sections 2.1, 2.2 2.3 and 2.6 of the AANA Code of Ethics.*

*Sportsbet acknowledges the advertisement is contentious but it does not think it is beyond acceptable advertising standards.*

*The advertisement was intended as a humorous reference to the current political environment with the Greens controlling the balance of power in the Senate and thus having significant influence in divisive debates such as the imposition of a Carbon Tax. The advertisement was meant to express one commonly held view that the Government would not have acted to introduce a carbon tax without the political pressure of those controlling the balance of power.*

*The ad does not discriminate against a gender or a person. Both Ms Gillard and Mr Brown are in the advertisement because of their political identities. Sportsbet acknowledges that the advertisement is not flattering to either the Prime Minister or the Leader of the Greens but the aim was not to disparage but to illustrate in a satirical way one view of the political environment around the carbon tax. The fact that the Prime Minister is a woman has nothing to do with the message that was intended to be communicated. Having Kevin Rudd in this picture would have been as satirical should he have been Prime Minister in the same balance of power situation.*

*The ad does not condone violence in any way, domestic nor other. Section 2.2 of the advertising code provides that violence can be displayed if justifiable in the context of the product or service advertised. This advertisement conveys by using a clearly ridiculous analogy of old fashioned (hence the gold frame and the B&W photo) parent-child discipline.*

*It was meant to convey someone being required to do something they may not wish to do and nothing gender based or violent was intended.*

*With regard to breaches of section 2.3 and 2.6 we believe these should also be dismissed.  
There is no overt reference to sex or sexuality or nudity and the advertisement is not relevant to community standards on health and safety.*

## **THE DETERMINATION**

The Advertising Standard Board ('the Board') considered whether the advertisement complied with the AANA Code of Ethics ('the Code').

The Board noted complainants concerns that the advertisement depicts a man 'spanking' a woman and is a depiction of violence, that it trivialized domestic violence, that the advertisement implies a sexual, sadomasochistic relationship, is sexist and that it treats elected politicians in an inappropriate manner.

The Board noted concerns about the depiction of the Prime Minister and a Senator. Some members of the Board expressed concern about the depiction but the Board noted that there is no provision in the Code to allow the Board to consider whether the depiction of people is appropriate or not on the basis of their position. The Board therefore made no determination on this issue.

The Board considered whether the advertisement was in breach of section 2.1 of the Code which requires that: "Advertising or Marketing Communications 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 ...sex."

The Board noted concerns that the advertisement is demeaning to women. The Board considered that the depiction of a woman being 'spanked' was offensive but that it did not amount to discrimination or vilification against women. The Board determined that the advertisement did not breach section 2.1 of the Code.

The Board considered whether the advertisement was in breach of section 2.2 of the Code. Section 2.2 of the Code states that "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised."

The Board noted the advertisement features a man with his hand raised to 'smack' the woman over his knee. The Board noted that this image is accompanied by the text 'Our spanking new tax beater.' The Board considered that the image was a clear depiction of a man in the process of or about to 'smack' a woman on her bottom and that this is a depiction of violence. The Board considered that the image was not relevant to the betting service advertised. The Board noted that mild depictions of violence or slapstick violence have been permitted but that this is usually where the 'violence' is accompanied by or in the context of an

element of humour, a lighthearted tone or a lack of intent. The Board considered that this advertisement, while intended to be humorous, was a clear depiction of violence in the context of a power struggle and breached the Code.

On this basis the Board determined that the advertisement did depict violence and was in breach of section 2.2 of the Code.

The Board noted complaints that the advertisement is suggestive of a sexual, sadomasochistic relationship. The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone”.

The Board considered that the image was not strongly suggestive of a sexual relationship and that most members of the community would not interpret the advertisement as having a sadomasochistic interpretation. On the basis of this, the Board considered that most members of the community would not find the imagery sexually suggestive and that the advertisement did not breach section 2.3 of the Code.

Finding that the advertisement breached section 2.2 of the Code, the Board upheld the complaint.

## **ADVERTISER RESPONSE TO DETERMINATION**

The advertisement is no longer running and we will not be running this again.