



Case Report

1	Case Number	0277/17
2	Advertiser	Sportsbet
3	Product	Gaming
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	21/06/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a lean ‘Yellow Jersey wearing’ cyclist warming up on a training roller. He’s sat upright, wearing his yellow jersey, holding his Android phone with the Sportsbet App towards camera. His legs are pedaling so fast we can barely make them out, but his face is composed. He is introduced as Jack Dupp, Pro Cyclist, and he describes the app as having more speed, more power and extra gear. The on screen text reads, “Putting the ‘roid in Android”.

THE COMPLAINT

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

Allusion to drug use to enhance sporting performance being ok whilst betting.

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 and the Complaint mentioned above regarding Sportsbet’s Android App cyclist advertisement (Advertisement).

The Complaint

The Complaint states:

'Allusion to drug use to enhance sporting performance being ok whilst betting'

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 Complaint:

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

Sportsbet's response to the Complaint

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

First and foremost, the ASB is required to make a determination on whether or not the Advertisement breaches the advertising requirements within the Code, particularly section 2.6. The fact that the Advertisement has received a single complaint based on an individual interpretation is completely irrelevant in assessing whether or not the Advertisement depicts material contrary to Prevailing Community Standards on health and safety.

In no way does the Advertisement glorify or promote the use of performance enhancing drugs or show any realistic achievement or positive outcome as a result of using performance enhancing drugs. Instead, the Advertisement mocks and derides athletes who have taken performance enhancing drugs, including through use of a fictitious name 'Jack Dupp' and showing a clearly unnatural and exaggerated outcome. Ordinarily ridicule of this kind would be considered to have a deterrent effect – something which could reasonably be expected to be in line with Prevailing Community Standards on health and safety.

The Advertisement does not feature any actual endorsement from anyone who has taken performance enhancing drugs. Instead, the Advertisement features a fictitious character from an American cycling team 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.

Playing on this theme, the Advertisement includes humorous steroid-related references such as 'extra gear' 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. Further, the Advertisement does not in any way link drugs of any kind with betting or allude to drug use being 'ok' while betting, as the Complaint claims.

The Advertisement is clearly and obviously a spoof and parody. It is in no way intended to be – nor could a viewer reasonably consider it to be – a portrayal of a realistic situation. This is demonstrated in a number of ways, including through use of an overtly fictitious name, showing a grossly exaggerated speed to the extent that smoke and flame is being generated and clear statements of 'Paid actor' and 'Probably thinks' in the context of purporting that the Android App is endorsed by yellow jersey winning cyclists. Viewed in this way, the propensity of the Advertisement to depict material contrary to Prevailing Community

Standards on health and safety is significantly reduced.

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 the Advertisement condones drug use to enhance sporting performance.

Relevance of the ASB's upholding of complaints regarding reference numbers 0234/17, 0235/17, 0236/17 and 0237/17 relating to Sportsbet's Ben Johnson advertisements (Ben Johnson Advertisements)

It's important to note that the Advertisement is a separate advertisement with different content from the Ben Johnson Advertisements. As such, the ASB's upholding of complaints relating to the Ben Johnson Advertisements should not bear upon its decision regarding the Complaint.

In any case, in respect of some of the reasoning expressed in the ASB's upholding of complaints relating to the Ben Johnson Advertisements, two core reasons for the ASB's determination that the Ben Johnson Advertisements breach section 2.6 of the Code were: '...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 '...there is little consequence depicted for these actions as the athlete is portrayed in a positive way...'

Critically, the Advertisement is materially different from the Ben Johnson Advertisements in that:

*the Advertisement does not feature Ben Johnson or any other athlete who has been found guilty for using performance enhancing drugs; and
the Advertisement does not portray athletes suspected to have used performance enhancing drugs in a positive light by reference to any actual success.*

Conclusion

With the above in mind, the Advertisement cannot reasonably be interpreted as depicting material contrary to Prevailing Community Standards on health and safety. In Sportsbet's submission the Complaint lacks foundation and should be dismissed.

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 concern that the advertisement implies taking drugs to enhance sporting performance is acceptable.

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 that the advertisement features a male voiceover saying that the new Sportsbet App puts the ‘roid in Android.

The Board noted it had previously upheld similar complaints about the reference of drug use in case 0234/17 and in case 0263/17 where:

“...the Board noted numerous statements in the advertisement: “no stranger to injecting powerful stuff in the back end.”; “new juiced up android app;” and “this human pin cushion can’t stop talking about its unfair advantage.”...

... 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 noted in the current advertisement that there are references which could be interpreted as meaning drug use (‘Sportsbet’s Android App is dope’ and ‘putting the ‘roid in Android’). The Board noted the advertiser’s response that the advertisement is intended to be humorous but the Board considered that these references to ‘dope’ and ‘roids’ are intended to be a double entendre play on words referring to illegal drug use in the form of performance enhancing drugs. The Board considered however that, consistent with its recent determination about a television advertisement for Sportsbet which mentioned Chinese swimmers (0276/17), the advertisement’s reference to ‘dope’ and ‘roids’ are relevant to the advertised App and in the Board’s view the minimal references and level of inference regarding a doping scandal do not create a strong message about drug use and cheating and does not suggest that there are benefits to gain from cheating or from behaviour that will enhance performance.

The Board considered that the advertisement did not depict, encourage or condone drug use, and did not depict material that was contrary to prevailing community standards on health and safety.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

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

