



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 :	0284-19
2. Advertiser :	Sportsbet
3. Product :	Gambling
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	11-Sep-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification
AANA Code of Ethics\2.5 Language

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a man in swimwear standing on a rock next to a sign saying 'Danger Crocodiles'. A voice over states, "This backpacking brainiac can't read a warning sign, but even he's sharp enough to use Sportsbet's new iPhone app."

A metal arm extends to give a phone displaying the app to the man. The man states, "Ya it's dead easy."

The voice over then states, "See you in the NT news mate."

The man then yells and jumps into the water.

The voice over states, "Sportsbet's new iPhone app. It's foolproof."

THE COMPLAINT

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

Abhorrent and appalling to think you can reference this word and language in a TV ad during anytime let alone during the day. My two kids were watching too.



A common “joke” in the Northern Territory is to CU in the NT, which clearly spells cunt.

This ad is highly offensive as it verbalises this while hiding behind an ad which has no bearing on gambling.

Many German tourists come to North Queensland. They are very well-behaved and welcome and will find this a DVD totally disrespectful. I meet many German tourists in my occupation and can vouch for this.

The reference to “see you in the NT” is the slang reference to the word cunt - “see(C) you(U) in the NT”. This is inappropriate for tv at anytime let alone prime time news.

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 letters dated 30th August and 4th September 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) 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.

Sportsbet’s response to the Complaint

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

Section 2.1 of the Code: Discrimination or Vilification

In short, the Advertisement does not discriminate against or vilify any person or group of people on account of nationality or any other basis.



As described in detail below, the portrayal of the main character in the Advertisement (like the main character in each of the other advertisements which form part of this series of 'Foolproof' advertisements) is purely satirical and without prejudice to, or disparagement of, any particular individual or nationality.

The Community Panel's views on 'discrimination and vilification' are well known and extremely serious. Without wishing to repeat what Sportsbet has stated in recent letters, it is important to briefly outline the weight of those categories captured under this section of the Code:

Discrimination: Acts with inequity, bigotry or intolerance or gives unfair, unfavourable or less favourable treatment to one person or a group because of their race, ethnicity, nationality, sex, age, sexual preference, religion, disability and/or political belief.

Vilification: Humiliates, intimidates, and incites hatred towards, contempt for, or ridicule of one person or a group of people because of their race, ethnicity, nationality, sex, age, sexual preference, religion, disability and/or political belief.

The Advertisement does not in any discriminate or vilify a nationality. As the Community Panel is aware, the Advertisement is one of a series of Sportsbet advertisements which seek to depict a series of individuals doing silly or foolish things as a humorous way to illustrate the extreme ease of use of Sportsbet's app. The characters in each advertisement varies, and this Advertisement features a 'backpacker' dressed in over-the-top tourist attire who foolishly ignores a clear 'Danger Crocodiles' sign and symbol to jump into water without apparent regard for the overt warning that crocodiles may be present in the water.

As submitted by Sportsbet in respect of the other advertisements in the 'foolproof' series, none of the required elements of inequity, bigotry, intolerance, contempt or inciting hatred (among others) are present in the Advertisement.

Section 2.5 of the Code: Strong or obscene language

*Section 2.5 of the Code relevantly prohibits advertising which includes 'strong or obscene language'. Some complaints have been raised which allege that the line used in the Advertisement 'see you in the NT News, mate' is a reference (or direct link) to 'c***'.*

Sportsbet rejects that the line used in the Advertisement has that meaning or effect. The line is coupled with a clear and distinct reference to the 'NT News' which is a mainstream newspaper published in the Northern Territory and infamous for including stories of individuals coming into contact with crocodiles in highly unusual situations, which is the point of humour in the Advertisement. For your reference, we have attached at Annexure A to this letter a number of examples taken from previous editions of the NT News which have included stories of this kind.



There is no strong or obscene language included in the Advertisement at all and Sportsbet respectfully submits that allegations of a breach of clause 2.5 of the Code have no basis.

Conclusion

Sportsbet reiterates its regret that the Advertisement was misunderstood by a small number of individuals who have made a complaint regarding this Advertisement. However, for the above reasons, Sportsbet submits that the Advertisement does not breach the Code and the complaints should be dismissed.

THE DETERMINATION

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

The Panel noted the complainants' concern that:

- The advertisement mocks Germans
- The advertisement spells out an obscene word which is inappropriate for television

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

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 provides the following definitions:

"Discrimination – unfair or less favourable treatment.

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

The Panel noted the complainants' concern that the advertisement is mocking German tourists.

The Panel noted the advertiser's response that the advertisement does not discriminate against or vilify any nationality and is purely satirical and without prejudice to any individual.

The Panel considered that the man in the advertisement is depicted as a stereotypical backpacker from Europe. He is clearly depicted as being foolish, through the use of the sarcastic description "backpacking Brainiac", the 'foolproof' stamp and his behaving in a foolish manner.



The Panel considered that the man is shown in a satirical manner as an individual doing something stupid. The Panel noted that the man is referred to as a 'backpacker' and has an accent when he speaks however considered that the man is not identified as being from any particular nationality or culture. The Panel considered that the stereotype of a backpacker ignoring warning signs in Australia's harsh environment is depicted in a humorous context and does not humiliate, intimidate, incite hatred, contempt or ridicule any person or group of people because of their nationality.

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 nationality and determined that the advertisement did not breach Section 2.1 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 advertisement featured the phrase, see you in the NT news and that this was an inappropriate reference to the obscene word 'cunt'.

The Panel noted the advertiser's response that the phrase does not have this meaning or effect and was clearly referring to the NT News newspaper which often features stories of people and crocodiles.

The Panel noted that the advertisement received a 'B' rating from ClearAds which meant that the advertisement cannot be played in a P, C or G rated program between 6am and 8:30am and between 4pm and 7pm, or in any program broadcast between 5am or 8:30pm which is principally directed to Children (aged under 15). The Panel considered that the complainants viewed the advertisement during programs such as the news and the Chase and considered that the relevant audience for this advertisement would be broad and would likely include children.

The Panel noted that it had previously considered a Facebook advertisement which featured the phrase 'CU in the NT' in case 0515-16, in which:

"The Board noted that the abbreviations 'C U' and 'NT' are commonly used to replace 'see you' and 'Northern Territory' and that most people who viewed the advertisement would be aware of this. The Board considered that the abbreviations may have their own meanings but the advertisement had been clearly designed to highlight letters to form a strong reference to the word 'cunt'. The Board noted community standards research into language had shown that the community considered the 'c-word' to be obscene and not appropriate in advertising in any form. The Board noted that the advertisement was on Facebook and therefore only likely to be seen by people over the age of 13, however considered that even for an adult audience the word was inappropriate for use in an advertisement. The Board



considered that the advertisement did use strong, obscene and inappropriate language.”

In the current advertisement, the Panel considered that the phrase ‘see you in the NT news’ is not written in an abbreviated form but said in full. The Panel considered that the phrase was said in a normal manner and the words ‘see you’ and ‘NT’ were not emphasised. The Panel considered that most people viewing the advertisement, including children, would not consider the phrase to be a reference to strong or obscene language, and would understand it to be an indication that the consequences of backpacker’s actions would likely be in a story in the well known NT News.

The Panel considered that the language used in the advertisement is not inappropriate, strong or obscene and determined that the advertisement did not breach Section 2.5 of the Code.

The Panel considered whether the advertisement complied with 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 considered that the advertisement featured a man jumping into water near crocodiles and that this was unsafe behaviour. The Panel noted that water safety and safety around crocodiles is a serious issue and that many people are injured or killed by crocodile attacks each year, including in the Northern Territory.

The Panel considered that this advertisement clearly depicts the man’s actions as foolish and likely to have negative consequences, and that it was not a depiction which would encourage copycat behaviour. The Panel considered that the advertisement did not condone or encourage people to swim in areas with crocodiles.

The Panel considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety and determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaints.